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CALIFORNIA LEGISLATURE—2009–10 REGULAR SESSION

ASSEMBLY BILL

No. 1121

Introduced by Assembly Member Davis
(Coauthors: Assembly Members Huffman, Lieu, and Ma)
(Coauthor: Senator Hancock)

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 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 The bill would ~~provide that its provisions would be repealed as of~~ *end the authority of cities and counties to adopt ranked voting on January 1, 2019, unless a later statute enacted prior to January 1, 2019, deletes or extends that date, but would allow such elections to be conducted until January 1, 2024.*

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

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

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

3
4 CHAPTER 2. RANKED VOTING

5
6 10050. (a) A total of not more than 12 cities and counties may
7 conduct a local election using ranked voting in which voters rank
8 the candidates for office in order of preference. The 12 cities and
9 counties shall consist of the following:

10 (1) Not more than four cities or counties authorized under this
11 subdivision shall be located in the northern California counties of
12 Alameda, Alpine, Amador, Butte, Calaveras, Colusa, Contra Costa,
13 Del Norte, El Dorado, Glenn, Humboldt, Lake, Lassen, Marin,
14 Mendocino, Modoc, Napa, Nevada, Placer, Plumas, Sacramento,
15 San Francisco, San Mateo, Santa Clara, Santa Cruz, Shasta, Sierra,
16 Siskiyou, Solano, Sonoma, Sutter, Tehama, Trinity, Yolo, and
17 Yuba.

18 (2) Not more than four cities or counties authorized under this
19 subdivision shall be located in the central California counties of
20 Fresno, Inyo, Kern, Kings, Madera, Mariposa, Merced, Mono,
21 Monterey, San Benito, San Joaquin, San Luis Obispo, Stanislaus,
22 Tulare, and Tuolumne.

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

5 (b) If in a single election the voters of two or more cities and
6 counties approve the use of ranked voting, and if the authorization
7 of one or more of these cities or counties would exceed the
8 maximum number allowed to be authorized under subdivision (a),
9 then all of those cities and counties shall be authorized.

10 (c) Ranked voting elections may be used for single-winner
11 elections, such as Mayor or City Attorney, or for elections that
12 elect multiple candidates to office, such as city council. Ranked
13 voting elections are tabulated in rounds as specified in Section
14 10058 for single-winner elections and Section 10059 for
15 multiple-winner elections. General provisions for both
16 single-winner elections and multiple-winner elections are specified
17 in this chapter.

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

22 10051. A city or county shall submit a written request to the
23 Secretary of State for authorization to use ranked voting in a local
24 election upon certification of a ballot measure or the adoption or
25 certification of the passage of an initiative ordinance pursuant to
26 Section 10054. The Secretary of State shall approve each request
27 in the order of its receipt until the maximum number of cities and
28 counties, as specified in Section 10050, has been authorized to use
29 ranked voting.

30 10052. (a) A city or county may not conduct a local election
31 using ranked voting unless that election is conducted on a voting
32 system that is capable of conducting the election using ranked
33 voting and that voting system has been approved by the Secretary
34 of State pursuant to Division 19 (commencing with Section 19001),
35 or by another procedure that has been approved by the Secretary
36 of State, which at minimum includes detailed specifications for
37 counting, auditing, and reporting of results.

38 (b) If the Secretary of State withdraws approval of a voting
39 system, pursuant to Section 19222, that was either intended to be
40 used, or was used, by a city or county authorized by this chapter

1 to conduct a ranked voting election, the city or county shall use
2 alternative equipment or procedures approved by the Secretary of
3 State when conducting subsequent ranked voting elections. In the
4 absence of an approved method for conducting a ranked voting
5 election, the authority of that city or county to conduct a ranked
6 voting election shall be temporarily suspended until the Secretary
7 of State approves the use of equipment or procedures to conduct
8 ranked voting elections. A city or county affected by this
9 subdivision shall still be considered one of the cities and counties
10 ~~references~~ *referenced* in Section 10050.

11 10053. The following definitions apply for purposes of this
12 chapter:

13 (a) “Continuing ballot” means a ballot that counts toward some
14 candidate.

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

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

19 (d) “Qualified candidate” means a candidate listed on the ballot
20 for this election or a write-in candidate qualified for participation
21 in this election.

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

29 (f) “Ranking” for a candidate on a voter’s ballot is the number
30 assigned to that candidate by the voter to express his or her
31 preference for that candidate, with the “highest ranking” being the
32 one with the lowest numerical value for a qualified candidate, in
33 which a first choice ranking indicates a greater preference for a
34 candidate than a second choice ranking, and “highest continuing
35 ranking” for a candidate on a voter’s ballot is the ranking with the
36 lowest numerical value for a continuing candidate. The “highest
37 ranking” and “highest continuing ranking” are those rankings
38 already advanced past blank choices or marks for unqualified
39 write-in candidates as specified in subdivision (b) of Section 10056
40 and subdivision (a) of Section 10057.

1 10054. (a) A voting method authorized by this chapter may
2 be adopted by either of the following means:

3 (a)

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

7 (b)

8 (2) By initiative ordinance adopted pursuant to Division 9
9 (commencing with Section 9000).

10 (b) *The ballot summary for any measure submitted to the voters*
11 *to adopt ranked voting pursuant to this chapter, either by a ballot*
12 *measure submitted to the voters by the governing body of the city*
13 *or county or by initiative ordinance, shall clearly state that*
14 *authorization for the city or county to use ranked voting shall be*
15 *permitted until January 1, 2024, unless a later enacted statute is*
16 *enacted before January 1, 2024, to extend that date.*

17 10055. A city or county using ranked voting in a local election
18 shall conduct a voter education and outreach campaign to
19 familiarize voters with ranked voting in English and in every
20 language in which a ballot is made available to voters in that city
21 or county. The voter education and outreach campaign shall include
22 public service announcements on radio or television or in the print
23 media that are disseminated consistently with the language
24 assistance requirements of the federal Voting Rights Act of 1965
25 (42 U.S.C. Sec. 1973aa-1a).

26 10056. (a) A ranked voting ballot shall allow voters to rank
27 as many choices as there are candidates. If the voting equipment
28 cannot feasibly accommodate a number of rankings on the ballot
29 equal to the number of candidates, the elections official may limit
30 the number of choices a voter may rank to the maximum number
31 allowed by the equipment. This limit shall never be less than three.

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

36 10057. (a) In the first or any round, if a ballot reaches a ranking
37 with no candidate indicated, that ballot shall immediately be
38 advanced to the next ranking. If a mark for an unqualified write-in
39 candidate as described in subdivision (b) of Section 10056, that
40 ballot shall be advanced to the next ranking.

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

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

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

(a) The ballots shall be counted in rounds pursuant to the 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~~ *may* be eliminated

1 simultaneously, and those ballots advanced to the next-ranked
2 continuing candidate. If two or more sets of candidates meet this
3 criterion, the provisions of this subdivision apply to the largest set.
4 For purposes of this subdivision, ~~“sets”~~ “set of candidates” means
5 _____ a continuing candidate and all other continuing candidates
6 with the same or fewer votes than that candidate.

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

13 10059. Ranked voting pursuant to Section 10050 for an election
14 to elect two or more candidates to office shall be known as “choice
15 voting” and shall be conducted in the following manner:

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

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

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

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

30 (d) If a candidate on the first count has a number of highest
31 ranking votes exactly equal to the minimum number of votes
32 required for election, that candidate is declared elected, and the
33 counted ballots indicating that candidate as a highest ranking are
34 put aside and the other rankings recorded on the ballots are not
35 examined.

36 (e) If a candidate on the first count gains more than the minimum
37 number of votes required for election, the candidate is declared
38 elected, and the number of votes in excess of the number of votes
39 required for election (the surplus) is recorded. All of the elected
40 candidate’s ballots are then reexamined and assigned to candidates

1 not yet elected according to the highest continuing ranking on the
2 ballots of those who gave a first preference vote to the elected
3 candidate. These votes are allocated according to a “transfer value.”
4 The formula for the transfer value is:

5 Surplus votes cast for the elected candidate, divided by total
6 number of votes received by the elected candidate, calculated out
7 ~~to four decimal places using “rounding to nearest” equals the~~ to
8 *five decimal places, with any remainder discarded, equals the*
9 transfer value.

10 (f) If two or more candidates on the first count gain more than
11 the minimum number of votes required for election, all of those
12 candidates are declared elected. Each of the ballots of the candidate
13 with the largest number of highest ranking votes will be reexamined
14 first and assigned (at the transfer value) to candidates not yet
15 elected according to the next highest continuing ranking marked
16 on that ballot. The ballots of the other elected candidates will then
17 be reexamined and their surpluses distributed in order according
18 to the number of highest ranking votes each candidate received *in*
19 *accordance with paragraph (2) of subdivision (i).*

20 (g) (1) If a candidate reaches more than the minimum number
21 of votes required for election as the consequence of a transfer of
22 votes from an elected candidate, the number of votes in excess of
23 the number of votes required for election shall be transferred to
24 other *continuing* candidates. This transfer will be to the next highest
25 continuing ranking shown on each of this candidate’s ballots. These
26 ballots now include (A) ballots indicating this candidate as the
27 highest ranking, and (B) the ballots transferred to the candidate
28 from one or more elected candidates. The transfer value for the
29 ballots on which the candidate was indicated by the highest ranking
30 is the same as the transfer value defined in subdivision (e).

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

37 The surplus votes cast for the elected candidate, divided by the
38 total number of votes received by the elected candidate, multiplied
39 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~~ *may* be eliminated simultaneously according to the procedure specified in paragraph (3), *so long as the number of elected and remaining continuing candidates is greater than, or equal to, the number of candidates to be elected*. 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”~~ *“set of candidates” means — a continuing candidate and all other continuing candidates with the same or fewer voters than that candidate.*

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

(3) Candidates are eliminated as specified in subdivision (h), and the votes of eliminated candidates are redistributed until

1 another candidate receives the minimum threshold of votes required
2 for election.

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

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

16 10060. (a) The instructions to the voters for an election that
17 uses ranked voting shall read substantially as follows:

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

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

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

34 10061. (a) As soon as possible after the close of polls of a
35 ranked voting election, the local elections official shall post ballot
36 image reports on the official Internet Web site for the city or
37 county. If a city or county does not have an official Internet Web
38 site, the local elections official shall make the ballot image reports
39 available to the public by other means as soon as possible after the
40 close of polls and notice of the availability of the ballot image

1 reports shall be prominently displayed in an appropriate public
2 location of the ~~city~~ city's or county's election division. The "ballot
3 image report" for an election means a report that lists, for each
4 ballot, the candidate or candidates indicated at each ranking, the
5 precinct of the ballot, and whether the ballot was cast by mail. In
6 the report, the ballots shall be listed in an order that does not permit
7 the order in which they were cast in each precinct to be
8 reconstructed.

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

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

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

33 10062. (a) A city or county that conducts an election using
34 ranked voting pursuant to this chapter shall prepare a report, in a
35 format specified by the Legislative Analyst, describing the success
36 of the conduct of the election, including, but not limited to, any
37 statistics on the cost to conduct the election, voter turnout, and the
38 number of ballots that were not counted and the reason those ballots
39 were rejected. Whenever possible, the report shall compare the
40 election using ranked voting to similar elections that were not

1 conducted as ranked voting elections. The report shall also include
2 feedback received by the city or county about voter satisfaction
3 with ranked voting and any problems that became known to the
4 city or county during the election or canvass.

5 (b) The report required by subdivision (a) shall be submitted to
6 the Legislative Analyst by a time specified by the Legislative
7 Analyst.

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

17 ~~10063. This chapter shall remain in effect only until January~~
18 ~~1, 2019, and as of that date is repealed, unless a later enacted~~
19 ~~statute, that is enacted before January 1, 2019, deletes or extends~~
20 ~~that date.~~

21 *10063. (a) The ability of general law cities and counties to*
22 *adopt ranked voting pursuant to this chapter shall be repealed on*
23 *January 1, 2019, unless a later enacted statute is enacted before*
24 *January 1, 2019, to delete or extend that date.*

25 *(b) Cities and counties previously authorized to conduct ranked*
26 *voting elections under this chapter shall be allowed to conduct*
27 *such elections until January 1, 2024.*