

Voice for Democracy

Newsletter of Californians for Electoral Reform

Spring 2012

San Francisco's Return of the RCV Repealers

by David Cary

After working to defeat one attempt to repeal RCV/IRV in San Francisco, CfER members are seeing a second attempt developing. This second attempt may have a better chance of being put on the ballot by the Board of Supervisors, probably for the election this November. It will take some concerted effort from CfER members and other RCV supporters to defeat this repeal effort.

The hearing for this proposal had not been scheduled at press time, but will probably be the only opportunity to give public comment in opposition to this repeal effort.

The first repeal proposal would have stopped any use of RCV in San Francisco. That proposal was defeated in February at the Board of Supervisors. The new repeal proposal keeps RCV for supervisors, but eliminates it for all of the city-wide offices, including mayor. Like the amended first repeal proposal that was defeated in February, the second effort would replace RCV with a September primary and a possible runoff in November. There would be no runoff if a candidate received at least 65% of the vote in September.

September primaries, just a week after Labor Day, would be a new election time for San Francisco and is a horrible time to schedule an election. September elections will have very low and unrepresentative turnout. A candidate could win in September with many fewer votes than candidates are winning with under RCV. If there is not a September winner, only the top two vote getters could advance to the November general election. All other candidates, including perhaps the truly most popular candidate, would be eliminated in September by a seriously flawed plurality vote. In some years San Francisco would have three elections, a June primary, a September primary, and a November general election, further creating confusion and voter fatigue.

After the Rules Committee hearing, the full Board of Supervisors could consider the charter amendment and vote to put it on the ballot as early as June 19. This proposal has six sponsors, enough to put it on the ballot unless at least one sponsor changes his/her position. While we haven't given up hope of that happening, we also need to prepare to fight this at the ballot box.

[Continued on page 4](#)

Oakland RCV Repeal Fizzling

By Judy Cox and Dave Cary

Oakland's use of Ranked Choice Voting will likely survive repeal efforts this year. While we won't know for certain until late July, efforts to put either a partial or full repeal measure on the November ballot appear to be fading for lack of sufficient support. Don Perata's former campaign manager and other associates have been leading repeal efforts, either by petition or directly through the city council.

The most recent efforts to eliminate RCV in Oakland focused first on a signature gathering process which was led by Don Perata's former campaign manager, Larry Tramutola and other Perata associates. After several months of signature gathering, the group had to admit that they were far from garnering the 29,000 signatures needed to put the repeal RCV measure on the ballot.

At that point, the fight shifted to the city council where council member De La Fuente conducted a campaign to gather enough votes from other council members to place the repeal measure on the ballot. However, our long-time efforts and work with council members meant that we had four strong votes of the eight council members and of course the backing of Mayor Quan if she needed to break a tie-so that effort has failed as well. So far, a repeal measure has not been formally introduced for review by the city council or any of its committees.

The repeal was repulsed by a diverse group of RCV supporters. Mayor Quan and city council members who support RCV exerted their influence. Collaboration to defend RCV included activists such as Judy Cox and Judy Belcher, co-chairs of the committee that led the adoption of RCV in Oakland; Esparanza Tervalon-Daumont, Executive Director of Oakland Rising; staff from the Ella Baker Center for Human Rights; and members of CfER, including Steve Chessin, Dave Kadlecsek, and David Cary. Rob Richie and FairVote were also important participants. Reporting by Bob Gammon in the East Bay Express has provided excellent coverage of the issues.

Jakada Imani, Executive Director of the Ella Baker Center, and Esparanza Tervalon-Daumont co-authored a powerful essay, "An attack on Ranked Choice Voting is an Attack on Democracy"

[Continued on page 2](#)



President's Letter

YOUR HELP IS NEEDED

By Steve Chessin

As reported in the last newsletter, we and our allies were able to block an IRV/RCV repeal measure from being placed on the San Francisco June ballot. However, Supervisors Mark Farrell and Sean Elsbernd are back with a watered-down version that will only repeal it for city-wide races, such as Mayor. Since the main concern by RCV opponents, at least ostensibly, is with the Mayor's race, we're going to see if we can at least get them to delay consideration for a few years. If the revised campaign finance rules eliminate the problem of "zombie" candidates, we might be able to convince the swing votes on the Board that no change to RCV is necessary. See David Cary's article on page 1 for more information.

In Oakland, IRV/RCV opponents have apparently been unable to muster the grassroots support they expected; while they published a notice of intent to circulate a petition for a repeal measure, there has been no sign of a signature-gathering campaign. Their March 31st campaign finance report showed less than \$2,000 raised (we won't know if they've raised additional money until the June 30th report, which isn't due until July 31st). Rumor has it that they are now trying to get the Oakland City Council to put a repeal measure on the November ballot, but we think we have the votes to block that effort. If not, we will have a ballot fight in November. See the article by Judy Cox and Dave Cary on page 1 for more information.

We also have an excellent article by Casey Peters on the status of the various challenges to the so-called Top Two Primary that took place June 5th. It begins on page 3.

Our 19th Annual General Meeting will be June 30th in Room 2 of the Los Altos Hillview Community Center, 97 Hillview Avenue, Los Altos. Our keynote speaker will be Assembly Member Paul Fong, Chair of the Assembly Elections Committee. We will also be announcing the winners of the Wilma Rule Memorial Awards (there are two this year), holding elections for our Board of Directors, and giving updates on the situations in Oakland and San Francisco. The formal announcement has already been mailed to all members in good standing. I hope you will be able to attend.

Steve Chessin has been CfER's President for many years. When not doing CfER work, he is a father and works as a software engineer.

OAKLAND'S RCV (CONTINUED FROM PAGE 1)

(<http://ellabakercenter.org/blog/2012/05/an-attack-on-ranked-choice-voting-is-an-attack-on-democracy>). Their essay notes that 2010 "saw a huge surge in turnout of low-income voters and voters of color who make up the majority of Oakland residents", that "RCV blunts the impact of Big Money", and that public officials who have long been in office will have to "broaden and smarten their campaigns" and "work with all of Oakland's neighborhoods in order to stay in office."

The repealers were probably not encouraged by an opinion poll they commissioned that reportedly found RCV supporters still outnumber RCV opponents by sizable margins in Oakland.

Even as we reach important milestones, we are reminded that the work of defending and improving our democracy is never done. As Oakland prepares for its second RCV election this November, there is still work to make sure that voters, candidates, and election administrators extend and improve on Oakland's first successes from 2010, while we also work to dismantle misconceptions about RCV.

While RCV appears to be safe in Oakland for the moment, it is clear that those who dislike change and who may not welcome the larger, more diverse electorate that RCV brings to Oakland will continue their efforts. That means that those of us who think a diverse city like Oakland needs a more democratic system like RCV must continue to fight back those who want to go back to the old two-election system in which the whiter, older few that voted in June got a disproportionate say in who governed Oakland.

Judy Cox is a former President of the League of Women Voters, and a leader in winning IRV, educating voters about IRV, and defending IRV in Oakland. Dave Cary been a key CfER activist in winning and keeping IRV in Oakland.



**INCREASE YOUR
SUPPORT OF CfER**

\$50 Members Get Free T-Shirts



Status of Three Lawsuits Against Top-Two Elections

by Casey Peters with research by Dave Kadlecek

In June 2010, California voters adopted Proposition 14 by a slim margin. The measure had been placed on the ballot by the legislature in a February 2009 deal with State Senator Abel Maldonado who in return provided the final vote needed to pass that year's state budget. Prop 14 was touted by its proponents as a way to diminish the power of political parties in California, to increase the power of independent (aka "Decline to State") voters, and to promote the election of more moderate and fewer politically extreme politicians. Proponents also falsely stated that replacing the partisan primaries with a Top Two system allowing all registered voters to participate would give voters more choices.

Opponents say that Proposition 14 decreases voter choice by taking away most options in the General Election when voter turnout is highest. That is because instead of allowing each political party to nominate its own candidates, only the Top Two vote getters in June are allowed on the November General Election ballot. Furthermore, California is apt to lose its alternative political parties as they will be kept off the ballot in General Elections and therefore no longer be able to garner 2% of the popular vote in statewide elections as required by law to maintain ballot status.

Opponents of Prop 14 have filed three separate lawsuits. Note that the defendant in all three cases is for nominal legal reasons California Secretary of State Debra Bowen who did not advocate passage of Proposition 14. The first lawsuit, Field v. Bowen, is actually against the implementing legislation, Senate Bill 6. It supported continuation of counting General Election write-in votes which are newly banned under Prop 14, but the lawsuit lost in the state Supreme Court. The Legislature has since passed, and Gov. Brown signed, a bill removing write-in space from General Election ballots for the first time in California history. Three times Californians have used write-ins to elect U.S. Congressional representatives at the General Election, but we are now deprived of that right.

The second lawsuit, Chamness v. Bowen is also aimed not directly at Proposition 14 but at its implementing legislation, SB 6. It is being appealed after losing its initial claim that a congressional candidate who wished to be labeled "Coffee Party" or "Independent" in a May 2011 special election should not instead be labeled as

having "no party preference". Both the Field and Chamness suits are asking the courts to find that the challenged provisions are not severable and thus to overturn the entirety of the implementing legislation. If SB 6 were nullified, the new Top Two system enacted by Prop 14 would effectively be voided unless the state legislature, most of whose members purport to oppose Proposition 14, acts to rectify the constitutional problems in the implementation statute.

The third lawsuit, filed November 21, 2011, jointly represents the Libertarian, Peace and Freedom, and Green Parties plus several individuals. Rubin v. Bowen would strike down Prop 14 and return California to a partisan primary election system. Its main points are that, as applied, Proposition 14: (a) severely burdens voter, candidate and party rights by excluding minor parties from General Election ballots; (b) burdens parties' and their members' freedom of association by permitting candidates to self-designate party preference on the ballot without the given party's approval; (c) violates the elections clause of the U.S. Constitution by disadvantaging smaller political parties and further advantaging wealthy parties and candidates, specifically by precluding minor party participation in General Elections; and, (d) violates equal protection rules by taking away rights from minor parties and their supporters to participate in General Elections. The last of these four claims was added on May 10, 2012, in a newly filed brief tentatively to be heard on July 10.

None of the lawsuits mention in their briefs that in the 2010 General Election, just 5 months after Proposition 14 passed by a margin of fewer than 400,000 votes, over one million California voters cast ballots for non-major party nominees for Lieutenant Governor and for Insurance Commissioner. In other words, a slight majority of California voters has been allowed to strip a large number of California voters of their rights of electoral self-expression and free association.

Nor has the argument been advanced that had Proposition 14 been in place in 2006, the results of the June election would have excluded any Republican candidate for State Controller from the November ballot, as the top two Democrats each had more votes than either of the top Republicans. This true-life example shows that it is not just the "minor parties" but major parties as well that can be excluded by the warped Top Two system. That phenomenon is even truer in gerrymandered districts than in statewide elections.

[Continued page 4](#)



LAWSUITS (CONTINUED FROM PAGE 3)

Californians for Electoral Reform opposed Proposition 14 in 2010 and CfER supports the lawsuits to overturn it on the basis that voters should be given a greater, not lesser, range of choices, and that the most effective way to ensure candidates elected to single-winner offices have majority support is the use of Instant Runoff Voting. That is CfER's position for constitutional and other executive offices, but for legislative seats we promote use of proportional representation. To enact the latter, a state constitutional amendment allowing multi-member districts would have to be placed on the California ballot and be passed by the voters. However, for now, CfER will support these lawsuits to return to the direct primary used before Proposition 14.

SAN FRANCISCO'S RCV (CONTINUED FROM PAGE 1)

In the mean time, Supervisor David Campos, a strong supporter of RCV, has been sponsoring a study of elections and election alternatives at San Francisco's Local Agency Formation Commission (LAFCo), which he chairs. In late April, preliminary results of the study highlighted the significant problems with September primaries. It also showed that San Francisco has higher rates of overvotes in its plurality multi-winner elections for the School Board and the Community College Board than it does with RCV contests. Other analysis has found that those contests also have higher rates of exhausted votes than RCV contests. So the best way for San Francisco to improve its elections would be to expand the use of RCV to those contests, rather cutting back.

Your continuing support and engagement on this fight to save RCV in San Francisco can help make the difference.

Dave Cary has been a key CfER activist in defending IRV in San Francisco.

Join CfER or Renew Your Membership Now

I want to: Join Renew Update my information

Name: _____

Street Address: _____

City: _____ **State:** _____ **Zip Code:** _____

Home Phone: _____ **Work Phone:** _____

Email address: _____

I would like to receive the newsletter by: Email Postal mail

Choose a membership program:

One year: Standard - \$25 \$50 \$75 Low budget - \$6

Sustainer (\$ per): Month (min \$5) Quarter (min \$15) Year (min \$60)

Make checks payable to "Californians for Electoral Reform" or "CfER"

Mail to: CfER, P.O. Box 128, Sacramento, CA 95812

Or visit www.cfer.org/join



NATIONAL NEWS

By Rob Richie

FairVote's vision of reform has made steady progress in recent years. We've seen wins in cities and states for ranked choice voting, the National Popular Vote plan for presidency and voter registration changes that advance the goal of full and accurate voter rolls.

We're also seeing our ideas move into the mainstream. The *Washington Post* this spring wrote an editorial in favor of ranked choice voting (RCV) for city elections. The *New York Times* has become a champion of the National Popular Vote plan. The Voter Empowerment Act bill has 126 congressional sponsors for the goal of modernizing voter registration, and more than four dozen Members have signed on HJR 28 and having a right to vote in the Constitution.

Of particulate note is a new book by two of our nation's leading political scientists and most influential pundits, Thomas Mann and Norman Ornstein. Their *It's Even Worse Than It Looks: How the American Constitutional System Collided With the New Politics of Extremism* makes a cogent case for how best to reform our elections. They feature ranked choice voting (RCV) and what we call "fair voting" -- American forms of proportional representation (PR) with high thresholds.

In a *Washington Post* commentary, they wrote: "Another option that would help make votes more accurately reflect the electorate's real feelings is instant runoff voting, where voters can rank their candidate preferences. Such a system produces majority winners, eliminates the spoiler role and reduces the "wasted vote" calculation for minor-party candidates, allowing them to participate more fully in the election process. Building more legitimate majorities in this fashion could extend the electoral reach of the major parties and thereby reduce their polarization."

In their book, they wrote: "Any group of like-minded voters should win legislative seats in proportion to its share of the popular vote, [proportional representation] facilitates the direct representation of racial and political groups and encourages multi-party systems and broad coalitions within legislatures." Although cautious about European-style party list system, they recommend we consider candidate-based fair voting systems with higher thresholds and votes for candidates.

FairVote is making major headway in showing how such systems can work – and developing strategies to start

replacing winner-take-all. We soon will have posted on our website a comprehensive plan for fair voting for all U.S. House races. Even without putting more than five seats in one district, we can ensure that every single voter in the nation in a state with at least three House members has the power to join with like-minded voters to help elect a major party candidate of choice – meaning every district would likely have both Republican and Democratic representatives. Along with representation of the left, center and right in any given district, we'd also see near-certain increases in representation of women and racial minorities.

Of course we're not content with shutting out third parties and independents, and fair voting sharply reduces the threshold of what it takes to win – down to 17% in a five-seat district. Moreover, using choice voting ensures that a vote for a minor party or independent won't be "wasted" even if that candidate ends up losing: it will go to your next choice and have the chance to influence who wins.

Although making the case for proportional representation in Congress at this point is primarily an intellectual exercise, it is extremely timely. Thinkers like Mann and Ornstein are not alone in despairing at the state of Congress and the limitations of reforms within winner-take-all rules. The strength of our argument is all the greater. Making the case clearly and regularly will win more hearts and minds – and move us from seeing proportional voting as visionary to what it actually is: a constitutionally permissible necessity for truly addressing what is so wrong with Congress and our politics.

In the same spirit, we're launching new web pages that make the connection between our voting rules and low representation of women and disparate voter turnout. Stay tuned for new releases this summer at fairvote.org, and we're excited that one of our 2012-2013 democracy fellows will devote most of their time to organizing around structural changes that will promote increased representation of women.

Turning toward efforts to win change now, we remain wary of ballot measures for proportional voting: they represent a high-stakes gamble that we should be ready to consider, but only when certain criteria are met about community support, viability and sustainability. But we have another route to consider as well.

[Continued page 6](#)



NATIONAL NEWS (CONTINUED FROM PAGE 5)

The value of the choice voting form of proportional representation is increasingly obvious as a remedy in cases brought under the Voting Rights Act. In recent years, three lawsuits brought by the Department of Justice against at-large voting methods have resulted in federal judges ordering the adoption of alternatives to winner-take-all elections. Jurisdictions losing such lawsuits have discretion to choose how to change their exclusionary voting methods, and choice voting is an obvious way to go.

That's why CfER's work in California communities being threatened with lawsuits under the California Voting Rights Act is so important. We want these jurisdictions to be fully aware of the option of going to a proportional system like choice voting. And we want those considering a lawsuit to be ready to ask for these remedies as well. To further that goal, we are finishing new "amicus briefs" about the legal basis for going to alternatives to winner-take-all that will be adapted and used for lawsuits in California and around the country. We fully anticipate these amicus briefs will contribute to more adoptions

As any loyal CfER member knows, ranked choice voting (instant runoff voting) also is of great value. Even if a form of winner-take-all voting, it frees voters to vote both their heart and their head – and often addresses other problems with our elections, like low-turnout rounds of voting in a two-round runoff system and the influence of money in two-round races.

California remains front and center in defending wins for RCV, but there is real progress elsewhere as well. FairVote Minnesota is doing heroic work building a vibrant coalition for RCV, building on its successful implementation of RCV in Minneapolis and St. Paul. Meanwhile, Maine had a terrific first use of RCV in the 2011 mayoral election in its biggest city of Portland, and now has a statewide dynamic where the Democratic Party nominees are being relegated to the "spoiler" status usually reserved for third parties and independents.

We also have plentiful opportunities to make the case for reform nationally. This year the major party presidential nominees faces the risk of losing votes to such credible third party candidates as Libertarian Party nominee Gary Johnson (former two-term governor of New Mexico, and the candidate with views closest to those of Ron Paul) and Constitution Party nominee Virgil Goode (former Virginia Congressman with socially conservative views that connect to many of the views of Rick

Santorum).

Finally, FairVote also has made exciting headway on issues that haven't been priorities for CfER, but we believe contribute to understanding the structural barriers to free and fair elections –and contribute to a climate where major reform is possible. The National Popular Vote plan (nationalpopularvote.com) continues to advance, with new potential wins this year pushing it over the halfway mark on its electoral vote march toward implementation when it reaches a majority of electoral votes in states passing the law. We believe Massachusetts has a real chance to become the latest state to establish a uniform voter registration age of 16 to allow for programs in schools and at the DMV to register all eligible voters to vote before reaching voting age.

Success depends on the grassroots activism that CfER so ably represents. Our soon-to-be released FairVote Action site is designed to make such activism all the easier. Together we can live up to what we see as fundamental to making democracy work: respect for every vote and every voice.

Rob Richie is the Executive Director of FairVote, a national organization with which CfER often collaborates. We encourage all CfER members to seriously consider supporting FairVote's work.



6930 Carroll Avenue, Suite 610
Takoma Park, MD 20912

(301) 270-4616
www.fairvote.org
info@fairvote.org



CfER Contacts

STATE OFFICE

Californians for Electoral Reform

P.O. Box 128

Sacramento, CA 95812

916-455-8021

Web: www.cfer.org Email: cfer-info@cfer.org

LOCAL CHAPTER CONTACTS

East Bay (SF Bay Area)	Joan Strasser	510-653-3174	jstrasser@igc.org
El Dorado County	Paula Lee	916-400-3802	paula.lee@comcast.net
Fresno County	Ryan Dunning	559-930-6073	ryan_dunning@hotmail.com
Humboldt County	David Ogden	707-445-8304	goldfinch@juno.com
Kings County	Ryan Dunning	559-930-6073	ryan_dunning@hotmail.com
Long Beach	Gabrielle Weeks	562-252-4196	gabrielle@workwithweeks.com
Los Angeles County	David Holtzman	310-477-1914	sdave@well.com
Madera County	Ryan Dunning	559-930-6073	ryan_dunning@hotmail.com
Marin County	Bob Richard	415-256-9393	bob@robertjrichard.com
Mariposa County	Ryan Dunning	559-930-6073	ryan_dunning@hotmail.com
Mendocino County	Don Rowe	707-463-2456	irv@mendovote.org
Merced County	Ryan Dunning	559-930-6073	ryan_dunning@hotmail.com
Monterey County	Michael Latner	805-466-0821	mlatner@calpoly.edu
Riverside County	Casey Peters	951-213-6032	democracy@mail2world.com
Sacramento County	Pete Martineau	916-967-0300	petemrtno@sbcglobal.net
Sacramento County	Paula Lee	916-400-3802	paula.lee@comcast.net
San Bernardino County	Matt Munson	909-984-5083	thinktank909@gmail.com
San Diego	Edward Teyssier	858-546-1776	edwardt1p@sbcglobal.net
San Francisco	Richard Winger	415-922-9779	richardwinger@yahoo.com
San Luis Obispo County	Michael Latner	805-466-0821	mlatner@calpoly.edu
San Mateo County	Mike Northrup	415-753-3395	northrop@alumni.tufts.edu
Santa Barbara County	Michael Latner	805-466-0821	mlatner@calpoly.edu
Santa Clara County	Michael Hunter	510-909-3941	mhunter@lusars.net
Santa Cruz County	Michael Latner	805-466-0821	mlatner@calpoly.edu
Tulare County	Ryan Dunning	559-930-6073	ryan_dunning@hotmail.com
Yolo County/Davis	Pete Martineau	916-967-0300	petemrtno@sbcglobal.net



Spring
2012

Published by

**Californians for
Electoral Reform**

Editor: Jim Lindsay

Proofreader: Steve Chessin

Typesetter: Jim Stauffer

Distribution:

Richard Winger
and Bob Richard

Contributors:

Steve Chessin, David Cary,
Judy Cox, Casey Peters, and
Rob Richie

Copyright © 2012 by
Californians for Electoral
Reform.

Signed articles are the
responsibility of their authors
and do not necessarily reflect
the positions of CfER.

CfER
PO BOX 128
SACRAMENTO, CA 95812

About CfER . . .

Californians for Electoral Reform (CfER) is a statewide citizens' group promoting election reforms that ensure that our government fairly represents the voters. We are a nonpartisan, nonprofit organization with members from across the political spectrum. Since our founding in May of 1993, our numbers have grown from about two dozen to hundreds of members participating in local chapters across California.

OUR ELECTORAL SYSTEM IS IMPORTANT

The method by which we vote has dramatic consequences, and nearly one third of the state's electorate consistently goes without a representative that speaks for them in Sacramento. The choice of electoral system can determine whether there will be "spoilers" or vote-splitting effects, majority sweeps of representation on city councils, or pervasive negative campaigning. The choice of electoral system determines whether minority perspectives or racial and ethnic minority groups receive fair representation or get shut out of the process entirely.

CfER IS THE LEADING ADVOCACY GROUP FOR THESE REFORMS IN CALIFORNIA

CfER works for legislation that would allow cities and counties to adopt voting methods that allow people to rank their preferences when they vote. CfER also works with activists in its local chapters to enact fair election methods in cities and counties across the state.

For more information visit www.cfer.org/aboutus

Temp. Return Service Requested

