Voice for Democracy

Basic Options for Proportional Representation

by David Cary

What kind of Proportional Representation (PR) voting system should California implement for its Legislature?

Choosing an initial form of PR to adopt at the state level will require wise decision making and compromise. While there are a few basic alternatives, each of them has numerous variations. Understanding and comparing the possibilities can be a challenge.

This article briefly describes options within the formal process for adopting PR for the Legislature. It also describes some of the basic alternatives for designing a system of PR. This overview can help you better understand what the possibilities are, what they have in common, and how they differ.

Options for Adoption

The 2011 *What's Next California* deliberative poll showed that California voters favored PR by 14 percentage points (48% in favor, 34% opposed). That poll has raised interest within CfER in implementing PR for the state Legislature sooner rather than later.

Adopting PR for the Legislature would require a change to the state's constitution. Any constitutional change requires voter approval, but there are three ways to put a constitutional change on the ballot. The Legislature can put any kind of constitutional change on the ballot with two-thirds approval from both the Assembly and the Senate. If the change is small enough to be considered an amendment, the change can be put on the ballot as an initiative with an 8% signature gathering requirement. If the change is so extensive that it is considered a constitutional revision, a constitutional convention is required to put the constitutional change on the ballot without direct approval from the Legislature.

Design Characteristics for Proportional Representation

by David Cary

How can we evaluate different proposals for proportional representation (PR) in California's Legislature?

While there are a few basic alternatives for implementing PR, each of them has numerous variations. Understanding and comparing the possibilities can be a challenge. This article looks at four design characteristics that can be used to evaluate various proposals. These characteristics can help you better understand the possibilities, what your preferences are, and why other people have different preferences.

The four design characteristics are: 1) Directness of representation; 2) Accuracy of proportionality; 3) Ease of voter experience; and, 4) Availability of choice.

Directness of Representation – This is the extent to which a voter is able to directly choose his/her representative. With direct representation, the voter is directly responsible, and preferably more fully empowered, to choose and hold his/her representative accountable, even though the voter's action may be facilitated by political parties. In contrast, with indirect representation a political party intercedes and mediates the representation.

The distinction between direct and indirect representation is often correlated to the presence of weak versus strong political parties. The distinction is sometimes described in terms of voting for candidates versus voting for parties or in terms of whether the legislative representation is for voters or for parties.

There are different perspectives about which is better. Some people see the cost and distortions associated with indirect representation as undesirable, while others feel the added structure of party mediation is beneficial for most voters by providing a focus of accountability and action.

BASIC OPTIONS (CONTINUED)

Unlike California's voters, California's two major parties have not been supportive of PR for the state Legislature. So it seems unlikely that the Legislature would put PR on the ballot. In contrast, several of California's smaller parties support PR. Those parties are now unfairly shut out of the Legislature, but PR could allow them a fair share of seats. So they could be strongly motivated to help gather signatures to qualify an initiative and campaign for votes to pass it.

Keeping an initial implementation of PR small enough to qualify for the ballot as an initiative means keeping focused on essential issues of PR and avoiding extra provisions that some voters might find objectionable. Successful change is more likely with a series of small initiatives rather than with one big change.
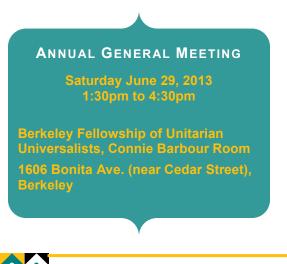
Basic Design Options

Any form of PR requires the use of multi-winner districts. There might be only one implicit district consisting of the entire state from which all legislators are elected, or there might be multiple districts, each one electing multiple legislators.

There are three basic types of PR that could be implemented for the partisan election of our Legislature:

- Party List
- Choice Voting
- Mixed Member

Party List – There are many variations of how this system can be implemented. The general principal is legislative seats being allocated to parties based on the percentage of the total vote each party received. A party fills their allocated seats from a list of candidates in a priority order.

ANNUAL GENERAL MEETING

Saturday June 29, 2013
1:30pm to 4:30pm

Berkeley Fellowship of Unitarian Universalists, Connie Barbour Room

1606 Bonita Ave. (near Cedar Street), Berkeley

PR DESIGN (CONTINUED)

Generally speaking, to the extent that party lists are determined without direct input from voters, party list approaches to PR provide less direct representation than choice voting, while mixed member approaches may be somewhere in between. Open party lists tend to offer more direct representation than closed party lists, since with open party lists the list priority is determined by voters.

Accuracy of Proportionality – This deals with how accurately the legislative election results truly reflect the numbers and preferences of voters. So for example, an implementation that gives a group of like-minded voters 40% of the representation regardless of whether the group comprises 35%, 40%, or 45% of the voters would be less proportionally accurate, other things being equal, than an implementation that gives the group 40% representation if its actual size is within a few points of 40%. Each of the basic approaches to PR provides some degree of proportionality, but has slightly different concepts of what proportionality means. Measures of accuracy of proportionality can vary accordingly.

Common design features influencing the accuracy of proportionality include the number of seats in a district, the number of districts, and the total number of legislators. However, other features can also affect the accuracy of proportionality.

Ease of Voter Experience – This recognizes that excessive complexity for voters can compromise their ability to make effective choices. Ease of voter experience includes not just the experience of marking a ballot, but also figuring out how to vote. Awareness of this characteristic can help avoid excessively long ballots or the need for strategic voting when designing a system of PR.

Availability of Choice – This encompasses giving voters both a breadth and density in the alternatives they have on a ballot and giving them sufficient ability to express their preferences for those alternatives. Designing for this characteristic may involve managing some of the supporting infrastructure of our elections such as ballot access.

Of course this is not an exhaustive list of design characteristics, but even this short list highlights a need to make design trade-offs. Hopefully these design characteristics can facilitate some of our discussion about what we should propose for an initial implementation of PR for the California Legislature. Our discussion can help assure that what we propose is most attractive to California voters. §

Think Big

AND SEIZE CHANCES TO WIN REFORM WITH MAJOR PARTY ALLIES

by Rob Richie, FairVote

Backers of a multi-party politics more independent of the two-party system often assume that the major parties will oppose any reforms that encourage more voter choice. You will hear the same argument from people who despair about achieving any major changes in voting rules resorting to the common refrain "why would people elected by one set of rules ever support new ones?"

But our history is replete with examples of those elected by one set of rules backing change. The key is context – and being ready to seize the day and build a winning coalition when a reform opportunity presents itself.

Consider our history of suffrage expansion. Initially, an overwhelming majority of Americans were blocked from participation – nearly all women, people of color, teenagers and people without property and multi-year residency. But leaders elected by a smaller electorate repeatedly acted to expand suffrage, including constitutional amendments extending suffrage to African Americans (the 15th amendment), women (19th amendment) and 18-year-olds (26th amendment).

The U.S. Senate backed a constitutional amendment to require all senators to be elected. Congress adopted campaign finance reform. Southern Lyndon Johnson signed the Voting Rights Act to protect African American voting rights. Many states have reduced barriers to ballot access, and major party nominees for Congress and governor have welcomed third parties to debates.

Rather than dismiss chances for reform or believe that change is only possible by initiative, third party reformers must be ready to build winning coalitions with major party backers. Current examples of what's possible include the movement for ranked choice voting in Maine and the growing chance to replace winner-take-all elections for Congress.

Maine has had strong independent politics for decades, with several independents winning gubernatorial races. But the presence of independents on the ballot has also caused vote splitting, resulting in less popular candidates winning some races.

These conditions create a perfect storm for support for ranked choice voting (RCV), the instant runoff system that allows voters to rank candidates in order of choice and use those rankings to simulate a runoff between the top two candidates. RCV gives voters the chance to vote for their sincere first choice and still help a lesser choice defeat their last choice. Of great interest to third parties wanting to escape the "spoiler" epithet, adoption of RCV for governor has drawn the backing of more than 40 Maine state legislators, including Democrats, independents and Republicans. If the governor vetoes the bill, a measure could be put on the ballot by a coalition of insiders and outsiders ready to work together to improve elections for all Mainers.

Nationally, there's a similar dynamic in replacing winner-take-all voting rules for electing Congress. Contrary to conventional wisdom, Congress can pass a simple statute to establish fair voting systems of proportional representation for congressional elections. Winner-take-all, single-member districts are no more the historic norm than having 435 House seats. What we need is the political will to replace the thoroughly discredited status quo with rules that give every voter a meaningful vote in every election – and that leave few voters stuck with representation from only one party.

FairVote presents plans for all 50 states in an interactive map at FairVoting.US, with associated factsheets and analyses describing the impact and legality of reform. Skeptics should remember the lessons of our own history—and the fact that even though hardly anyone in 1985 thought the people of South Africa and Eastern Europe had any chance of throwing off the chains of dictatorship, within a decade their nations all held democratic elections.

For replacing winner-take-all elections for Congress, potential allies include:

Democrats – In 2012, Democratic House candidates won more votes than Republicans and had an underlying voter preference of some four percentage points. But they won only 46% of seats, and likely needed a ten percentage point edge to earn a simple majority. Democrats had been victimized by gerrymandering in several states, but their real problem is structural: Democratic voters today are more concentrated in urban areas, and even "fair" redistricting done by commissions would leave Republicans with a significant edge.

THINK BIG (CONTINUED)

Republicans – House Republicans may benefit in the short-term from winner-take-all rules, but their party does not. Since their 1994 takeover of the House, Republicans have won the popular vote for president only once – George Bush's narrow re-election in 2004. In 2012 they lost badly to a weakened Barack Obama and won fewer U.S. Senate seats than any major party in a half century. Defined by House leaders who in turn are shaped by their strongholds, Republicans are unlikely to become a majority party again until able to run and win across the country, with a more representative mix of winners.

The Discontented Center – Single-member districts result in a highly partisan House – with every Democrat now to the left of every Republican. While many in Washington wish for representatives able to build bridges between the major parties, they fail to see that the bridge has been washed away by winner take all voting rules. With the public seeing each party as quite distinct, it is nearly impossible today to win in a district leaning toward the other party – but it is precisely those Members who used to help Congress get things done.

Under-Represented Constituencies such as Third Parties, Women and People of Color – The share of the electorate registering to vote outside the major parties keeps growing, but has almost no representation in Congress. More than 80% of Congress is men, with little progress for women for two decades. People of color are bumping up against a winner-take-all election ceiling that caps representation – and even that representation is at risk if the Supreme Court weakens the Voting Rights Act.

All these constituencies have a common interest: having a chance for the left, center and right in all parts of each state to earn fair representation – something that would happen with even modest forms of fair voting in larger districts. In a fair voting election for Connecticut's five House seats, for example, a candidate would win with the strong backing of 17% of voters.

Just as in the opportunity to win RCV in Maine, building a reform coalition will take smarts – and realizing that prophecies of failure are self-fulfilling. It's time to think big, find allies and win real reform to take action when the political opportunity arises, as it inevitably will. §

Rob Richie is Executive Director of FairVote. This article excerpt is reprinted with permission. www.FairVote.org

BASIC OPTIONS (CONTINUED)

Most of the system variations address how the prioritized list can be derived. There are two main varieties of party lists: closed lists and open lists. With closed lists, the party determines the priority order of candidates before the election, for example by party convention or primary. With open lists, all voters are able to vote for individual candidates within a party list. The candidates are then prioritized within a list depending on how many votes each one received. With either form of party list, there can be different rules about what a party is, how it forms its list, and what algorithm is used to decide how many seats a party is allocated.

Choice Voting – The voter ranks candidates in order of preference, marking a first-choice candidate, a second-choice candidate, and so on. During rounds of vote tabulation, votes for losing candidates and surplus votes for winning candidates are transferred to other candidates according to the marked preferences of each voter. The winning threshold is a variable calculated for each contest in the election, and is based on the number of votes cast and the number of seats to be filled in each contest. This is what allows a smaller group of like-minded voters to coalesce their support to elect a number of candidates in proportion to the group's size.

Other attributes of this system include:
- Identifying groups of like-minded voters during vote tabulation.
- Avoiding the effect of vote splitting.
- Avoiding the effect of wasting surplus votes for a winning.

With choice voting, a voter can vote for candidates of more than one party. Choice voting is also known as multi-winner ranked choice voting and as single transferable vote.

Mixed Member PR – A hybrid system that combines elements of a party list approach with elections from single-member districts. Some legislators are elected from single-member districts, while others are elected using a partly list approach. While the single-member results are usually disproportional, seats are allocated to parties under a party list approach to compensate for the imbalance and restore proportionality. §

President's Letter

– Steve Chessin, President

In case this gets to you before it happens, I hope to see you at CfER's 20th Annual General Meeting on Saturday, June 29th, in Berkeley. See the announcement on page 2. (You should have gotten a mailing on this.) If this gets to you after it happens, I hope I saw you there.

I wish I could tell you that the talk I gave on proportional representation and cumulative voting to the Anaheim Citizens Advisory Committee on Elections and Community Involvement (CAC) on January 31st convinced both sides that a reasonable compromise exists and they should recommend that the City Council be elected using cumulative voting. Alas, they preferred to deadlock.

To bring you up to speed, in June of 2012 a group of Latino citizens sued the City of Anaheim for allegedly violating the California Voting Rights Act. They asserted that Anaheim has a pattern of racially polarized elections that prevents them from electing candidates of their choice, and they want the City to switch to district elections. The City denied the allegations and seeks to preserve the current at-large winner-take-all system.

Arguably in response to the lawsuit, the City Council voted 3-2 in August of 2012 to create the CAC and have it bring back recommendations on electing the Council by May 31st of this year. (They voted by the same margin against putting a district elections charter amendment on the ballot.) The resolution that established the CAC explicitly instructed them to consider cumulative voting. The CAC had ten voting members, two appointed by each council member, meaning six were biased towards preserving the status quo, and four were biased towards switching to district elections.

The CAC invited experts to educate them. The first one, a California political scientist, confused cumulative voting with at-large plurality. The next, an expert on the California Voting Rights Act, said cumulative voting could resolve such cases, but didn't explain how it did that. The third, a demographer, acknowledged the existence of cumulative voting, but did not otherwise discuss it. They finally brought in a political scientist from Missouri to explain IRV and cumulative voting, and me to explain proportional representation and cumulative voting. The political scientist explained cumulative voting somewhat, but while he said it allowed minorities to get their fair share of representation, he did not show how it did that. Of all their so-called experts, I was the only one who clearly and concisely explained how cumulative voting worked, both from the voter's perspective and in producing fair results.

[The video of my talk is posted at http://www.anaheim.net/articlenew2222.asp?id=4957; scroll down to the label "01/31/2013". You can either view the YouTube version or download the MP4. Either way, my portion begins around 59 minutes into the video. The slides I used are at the link "Fair Vote" (I didn't choose the name).]

After other meetings where they heard presentations on voter participation and outreach, cost of election administration, and city council size, they finally got down to the business of discussing and debating what they learned, and considering recommendations.

The CAC unanimously recommended that the Mayor should continue to be elected by the voters. It also unanimously recommended that the number of council seats should be increased, but was split as to whether that should be to six council members plus the Mayor (6+1) or eight council members plus the Mayor (8+1). It was similarly split as to whether Anaheim should switch to districts or keep the current system. (One of the status-quo appointees switch sides and voted in favor of districts.) They spent some time discussing two hybrid systems (one with some district seats and some at large seats, and another where each district nominated two candidates in a first election but the runoffs would all be city-wide), but eventually rejected them. They dismissed cumulative voting out of hand, discussing it for less than two minutes.

After deadlocking on a system, they decided to recommend that the Council should put district elections on the ballot and let the voters decide. (This is what the Council minority had wanted to do at the beginning!)

The Council received and filed the CAC's report on May 28th, but did not discuss it. (They may discuss it at their meeting on June 11; I am writing this a few days before that meeting.) Instead, they voted to establish a Charter Review Committee, which may, or may not, recommend changing the way the Council is elected. So after almost a year, they are back to where they started!

Needless to say, I am disappointed. Cumulative voting would have been the perfect compromise, as it gives each side some of what it wants, but not everything. The Council majority would give up winner-take-all elections, but get to prevent the Balkanization of Anaheim into districts. The lawsuit plaintiffs would give up the concept of districts, but get an electoral system that enables them to elect candidates of their choice.

The parties are scheduled to meet in court in July. It's not clear yet what will happen. I will keep you posted. §

Taking the Futility out of
"Contact Your Representative!"

by Mike Hunter

There are a lot of excuses we all come up with when we're told to write to our elected officials about an issue. Here are a few that come to mind for me:

- <u>Meh</u>. That issue isn't very important to me, I'll let you folks fight that one out.

- <u>Hmmm</u>. I'll keep my eye on that one and see if it amounts to something.

- <u>Yeikes</u>! My baby's diaper needs to be changed and my other kid just started building a fort in the dishwasher.

- <u>YES</u>! My representative is already a champion of that issue, no need for me to contact them about it.

- <u>ARGH</u>! My representative is strongly opposed to what I think about that issue, contacting them would be a waste of time.

Proportional representation—the umbrella term for methods of electing legislative representatives in proportion to their popular support—can't help me un-fort my dishwasher, but it can help make it much more likely that I'd elect at least one representative who's interested and motivated to listen to my views.

Consider the case of Representative Maud E. Rhet and voter Connie S. Vertif. Is it worth Connie's time to write to Rep. Rhet to beg and plead for her causes if she knows that Rep. Rhet's views on those causes are diametrically opposed to hers? It's certainly a noble thing to register dissent, but it's hard to imagine it would change the way Rep. Rhet will vote, especially if Connie's view isn't already popular. As Connie gets out her quill and ink to write to Rep. Rhet, it occurs to her that if the shoe were on the other foot, the best she herself could do is be polite, but not actually change how she'd vote on this issue, because of the views in a letter that are out of step with A) what she believe in and B) her constituency; which only needs to be 50% + some safe margin of the electorate. And so, the quill and ink are put away.

The same holds for situations in which a representative strongly agrees with a given citizen: Picture the happy voter; every morning his representative in the newspaper fighting for 4 out of 5 of the issues he cares about. Sure, it might be worth it to write about that 5th issue (if you don't already know that your representative disagrees strongly with you about it), but even so, 4 of those 5 issues are things that aren't ripe for influencing the way your representative will vote by contacting them.

Political systems should be structured so that expressions of voters' will—expressed both at the ballot box and the times in between—influence how governments behave. With proportional representation, the situation described above would likely play out differently: When a voter is represented by a delegation of, say, ten representatives, it's much more likely that there will be at least one representative who could be influenced by a voter reaching out and expressing their opinion. And representatives have something to gain under proportional representation systems for paying attention to such a voter, because figuring out a position that strongly appeals to smaller groups of voters makes sense under proportional representation, whereas in a system like we have today, issues are often fought on one side or the other of a two-party divide. Not only is a voter likely to have representatives who are ripe for influence, but a voter is also likely to have one or more representatives who strongly agree with their position in the first place (a 50-50 prospect at best in the "single winner" district system of today).

No election system will ever be a magic bullet for everything, and the same is true for proportional representation: It won't change my kid's diaper, but it does offer the change to increase civic engagement by knocking several big items off of the list of reasons not to engage, which is just one of many big improvements proportional representation brings over traditional election methods. §

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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

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