



# Memorandum

**TO:** HONORABLE MAYOR AND  
CITY COUNCIL

**FROM:** Toni J. Taber, City Clerk

**SUBJECT:** Ranked Choice Voting

**DATE:** March 22, 2022

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## Memorandum

### Summary of potential Council decisions:

The City Council would need to determine whether to hold RCV elections, and then whether to hold them concurrently with the statewide primary in March/June or with the general election in November.

### What is Ranked Choice Voting:

Ranked Choice Voting (RCV) is an election method that allows voters to rank their preferences for candidate races on one ballot, eliminating the need for a separate runoff election. Ranked Choice Voting is also known as Instant Runoff Voting for this reason.

In an RCV election, generally, voters rank their first, second and third choices in each race. Voters' first choices are counted and if no one candidate receives a simple majority (50% plus 1 vote), the voting system conducts an "instant runoff" by eliminating the candidate with the fewest votes and assigning those votes among the remaining candidates to the second choice preference for each ballot. In other words, voters whose top candidate was eliminated will have their next choice count. The process is repeated until one candidate has a majority of the votes.

### Benefits of Ranked Choice Voting

There are several benefits of RCV as listed by multiple resources.

1. **Majority vote:** According to FairVote.org, RCV preserves majority voting. Their example is in Maine, nine of eleven gubernatorial elections between 1994-2014 were won with less than 50% of the votes using plurality voting in which the winner is the one with the most votes, not 50% plus one. This was a major reason behind the State of Maine moving to ranked choice voting. Maine held primaries in June, with runoffs in November. In Maine, Governor LePage won in 2010 in a four way race with 38% of the vote (one Republican, one Democrat, two Independents). In 2014, he won in a three way race with 48% of the vote.

2. **Reducing negative campaigning:** Another benefit is reducing negative campaigning, as more candidates will campaign to not just be a first choice, but to also be a voter's second choice, leading to candidates who need to appeal to a broader selection of voters and not alienate supporters of other candidates.
3. **Cost saving:** After the initial cost of outreach and software, RCV saves a City money by eliminating the costs of conducting a second runoff election.
4. **Promoting Diversity:** In the experience of San Francisco and Oakland, RCV has promoted diversity among elected officials. According to a report from Fairvote.org, winning candidates of color, particularly those who are Black or Hispanic/Latino, increased their vote totals between the first and final ballot rounds at a higher rate than winning White candidates. In precincts with more voters of color, voters rank a higher percentage of candidates, indicating a willingness among communities of color to engage with the ranked ballot.
5. **Encourages third party voting:** Voters are more likely to vote for their preferred candidate first, rather than voting for the candidate they think is likely to win.
6. **Voter response:** In a study by Kimball and Anthony at the University of Missouri—Saint Louis, they noted “more satisfaction with the local election than voters in cities using plurality voting.”

#### Challenges of Ranked Choice Voting

1. **Majority Voting:** It's possible for a candidate to win without a majority when voters do not rank every candidate.
2. **Outreach expenses:** A move to RCV will require extensive voter outreach and change mitigation. This cost can be mitigated by the election which is eliminated. Additionally, candidates will need to perform more outreach to voters to ensure the broadest possible section of the community knows the candidate enough to rank them.
3. **Disenfranchisement:** There is a higher risk of disenfranchisement as voters may not understand how to fill out the ballots even with extensive education. Additionally, voters who do not rank every candidate, may find their vote not counted. For example, if there are five candidates, and the voter ranks three of those, but does not rank the final two, and if the three people for whom they voted are eliminated in early rounds, that voter would have no vote in the final selection. Overvoting occurs when a voter marks two candidates as their first choice, in this case neither vote counts. Undervoting occurs when a voter marks a first choice and a fourth choice, but skips the second and third choices. In this case, only the voter's first choice counts. Additionally, Kimball and Anthony noted “confusing voting equipment or ballot designs produce more voting errors, and the impact of poor design falls disproportionately on low income and minority voters.”
4. **Voter response:** In a graduate study at MIT focused on elections in Maine, Jesse Clark noted that “RCV produced significantly lower levels of voter confidence, voter satisfaction, and ease of use. It also increased the perception that the voting process was slanted against the respondent's party.” Additionally, under the current plurality system, voters can focus on their preferred candidate, but with RCV, the voter will need to know enough about each candidate to rank them. This may lead to the first choice candidates and even second choice selected by the voter's knowledge of the candidate, but subsequent choices may be randomly selected and not based on the candidate's positions.

5. **Ballot Counting Errors:** There is a higher risk of ballot counting errors due to errant marks on ballots, as well as the more labor intensive work to count the ballots.
6. **Effect on other ballot items:** Article XIIC, section 2(b), of the California Constitution provides that general taxes, the revenue from which may be used for any general governmental purpose and require majority voter approval, must be “consolidated with a regularly scheduled general election for members of the governing body of the local government, except in cases of emergency declared by a unanimous vote of the governing body.” Moving Council elections to rank choice voting would eliminate a regularly scheduled general election for Councilmembers by consolidating the primary and run-off election and would reduce the opportunities for the City to place general tax measures on the ballot from two elections per cycle to one election per cycle. In contrast, special tax measures, which is a tax for a specific purpose and requires two-thirds voter approval, may still be placed on the ballot at the same time as the statewide primary and general elections if the City were to move to rank choice voting. Unlike general tax measures, the California Constitution does not place a timing restriction on when a governing body may present a special tax measures to the voters. Eliminating Council races from the Primary could also affect other jurisdictions by reducing voter turnout.

#### Ranked Choice Voting in Use.

In the last decade, several local Bay Area jurisdictions have passed charter amendments allowing for ranked choice voting when the technology is available. These jurisdictions include Berkeley, Oakland, and San Leandro. The City and County of San Francisco was the first local jurisdiction to switch to RCV, adopting the system to elect all officials by a charter amendment in 2002 and holding its first RCV elections in 2004. In 2006, Oakland voters passed a charter amendment to adopt RCV for city officials, with 69% of voters in favor of making the switch. In 2010, Berkeley and San Leandro adopted ranked choice voting and, in November of 2010, Oakland, Berkeley, and San Leandro all held their first RCV elections, with Oakland’s highly competitive mayoral election receiving national media attention. In 2011, San Francisco had a series of extremely competitive races with RCV, including the Mayoral seat and several Districts on the Board of Supervisors. And in 2012 Oakland, Berkeley, and San Leandro used RCV for a second time, with competitive races for Berkeley’s mayor, and City Council positions in Oakland and San Leandro.

In addition to Bay Area jurisdictions, as of November 2021, 43 jurisdictions used RCV in their most recent elections, and more than 50 jurisdictions are projected to use RCV in their next election. As previously mentioned, the State of Maine uses ranked choice voting statewide.

The data for research of RCV elections in the United States is still a relatively small sample due to the limited amount of time RCV has been in use. Several jurisdictions have repealed the use of RCV such as:

- Burlington, Vermont—adopted in 2005 and repealed in 2009
- Ann Arbor, Michigan—adopted in 1974 and repealed in 1976
- State of North Carolina—adopted for judicial vacancies in 2006, repealed in 2013
- Aspen, Colorado—adopted in 2009, repealed in 2010

- Pierce County, Washington—adopted in 2006, repealed in 2009

#### Steps to adopt ranked choice voting

An amendment of the Charter would be required in order to give the City of San Jose the opportunity to use instant runoff voting in the future. If Council would like to be able to use instant runoff voting for local candidate elections, it could propose a charter amendment to the voters to allow for instant runoff when technologically feasible, as other jurisdictions have done.

Implementation of instant runoff voting will require coordination with the Registrar of Voters for Santa Clara County and involve increased costs for voting system upgrades, public outreach and voter education, training, and printing and mailing a second ballot for instant runoff elections if there are other non-RCV elections (i.e., propositions, state and federal elections) on the ballot. The Santa Clara Registrar of Voters (ROV) has recently prepared a report on RCV noting they are in the research phase. A very rough estimate is an estimated \$800,000-\$1,000,000 for an advertising/outreach campaign, excluding staff time, along with ongoing yearly costs associated with advertising and outreach. The RCV module from the software vendor is \$90,000. From the ROV memo to the Board of Supervisors:

*To date, the ROV has determined that the voting system would require the purchase and installation of the RCV software module from the voting systems vendor; the Election Night Reporting (ENR) software would need to be updated to accommodate RCV; the size of the ballot would increase, in terms of the number of cards, dependent on the number of jurisdictions that chose to utilize the RCV ballot type. . . . Election materials, such as envelopes, ballot instructions, and the County Voter Information Guides, would need to be redesigned; additional space would be needed for operations and storage throughout the various stages of the election operations, for both equipment and staff; training of vote center workers would need to be expanded to incorporate the RCV education components to be shared with voters at the vote centers; and a large, comprehensive voter education campaign would need to be developed and disseminated on an ongoing basis.*

It should be noted that those increased ROV costs will be borne by the jurisdictions who choose RCV.

#### Cost Implications:

The 2022 June primary election is estimated to cost a total of \$3,129,569. Passing RCV would eliminate the need for a June election. However, there will be increased processing costs for the November election at which RCV is scheduled which are unknown at this time. Additionally, the above noted increased cost in outreach and education (materials, websites, staffing) would reduce the savings of cancelling one election. Savings would also be reduced if a ballot measure election was held on the June Primary. A stand-alone ballot measure at which there is no

mayoral election with which to consolidate the elections is estimated to cost approximately \$1,660,211 for June 2022.

Council Decisions:

**1. Whether to proceed with Ranked Choice Voting**

Council needs to decide whether the City should move forward with Ranked Choice Voting.

**2. Timing of Ranked Choice Voting Election:**

The Council would need to determine when to hold the RCV election. With the state/federal primary election (in March during presidential elections or in June during gubernatorial elections), or with the general election in November. Turnout is generally greater during the November general election, which would increase participation and address equity considerations raised in the prior discussion of moving the mayoral election to presidential years. With a November RCV election, we may not know until December who will be taking office in January, leaving staff with significantly less time to process a council transition of multiple offices.

Other cities that use RCV typically hold their elections in November due to the higher turnout. The City of Oakland and the City and County of San Francisco will hold their RCV election for Councilmembers/Supervisors on November 8, 2022.



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City Clerk

If you have any questions, please contact [city.clerk@sanjoseca.gov](mailto:city.clerk@sanjoseca.gov)

Resources consulted:

1. [www.fairvote.org](http://www.fairvote.org)
2. <https://www.calrcv.org/>
3. <https://my.lwv.org/vermont/article/pros-and-cons-instant-runoff-ranked-choice-voting>
4. <https://medium.com/mit-election-lab/the-effect-of-ranked-choice-voting-in-maine-44bbb7374847>
5. [http://lldc.mainelegislature.org/Open/Rpts/jk2890\\_m32\\_2005.pdf](http://lldc.mainelegislature.org/Open/Rpts/jk2890_m32_2005.pdf)
6. <https://www.boston.com/news/politics/2016/09/01/how-paul-lepage-got-elected-and-how-mainers-think-they-can-fix-a-broken-voting-system/>
7. <https://attheu.utah.edu/facultystaff/ranked-choice-voting-gives-voice-to-diverse-electorate/>

8. <https://www.newamerica.org/political-reform/reports/ranked-choice-voting-delivers-representation-and-consensus-in-presidential-primaries/>
9. <https://www.umsl.edu/~kimballd/KimballRCV.pdf>
10. <https://www.amny.com/politics/ranked-choice-voting-boosted-turnout-diversity-nyc-primary/>
11. [https://d3n8a8pro7vhmx.cloudfront.net/fairvote/pages/20267/attachments/original/1620768112/RCV\\_Benefits\\_Communities\\_of\\_Color\\_Report.pdf?1620768112](https://d3n8a8pro7vhmx.cloudfront.net/fairvote/pages/20267/attachments/original/1620768112/RCV_Benefits_Communities_of_Color_Report.pdf?1620768112)
12. <https://alaskapolicyforum.org/2020/10/failed-experiment-rcv/>
13. Charter Review documents related to Ranked Choice Voting:  
<https://sanjose.legistar.com/LegislationDetail.aspx?ID=5034304&GUID=07DFB803-CF8A-47CF-AF64-F47D3FF34371&Options=ID|Text|Search=voting>