

November 16, 2000

The Hon. Bill Lockyer, Attorney General
ATTN: Initiative Coordinator
Office of the Attorney General
1300 I Street
Sacramento, CA 95814

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INITIATIVE COORDINATOR
ATTORNEY GENERAL'S OFFICE

Dear Hon. Bill Lockyer:

I attach hereto a proposed ballot initiative, together with a check for \$200. Please prepare a title and summary of the measure, and otherwise begin the process necessary to the eventual placement of this measure on the ballot.

I can be reached at 510-339-7664 with any questions.

Very Truly Yours,

Gary S. Shuster, Esq.

Electoral Choice Act:

This initiative measure is submitted to the people in accordance with the provisions of Article II, Section 8, of the California Constitution.

This initiative measure adds and amends provisions of the Elections Code; therefore, existing provisions proposed to be deleted are printed in ~~strikeout type~~ and new provisions proposed to be added are printed in *italic type* to indicate that they are new.

PROPOSED LAW**ELECTORAL FREEDOM OF CHOICE AND NO WASTED VOTES ACT****SEC. 1. Title**

This act shall be known and may be cited as the "Electoral Freedom of Choice and No Wasted Votes Act."

SEC. 2. Findings and Declarations: The People of the State of California hereby find and declare all of the following:

(a) Under the system of elections currently in effect, it is possible for federal and state office-holders to be elected with less than 50% of the popular vote, and this may result in the election of politicians who are not the true democratic choice of the voters.

(b) Even when the majority of voters would prefer a third party candidate over the nominee of one of the two major parties, many of those voters do not vote for that third party candidate for fear that, under the existing system where the candidate winning a simple plurality of the vote is elected, they would be "throwing their vote away" by voting for the third party candidate.

(c) Voters often vote strategically, rather than voting their conscience, because they fear that voting for a third party candidate will boost the chances of a plurality win by the major party candidate the voter more disfavors.

(d) Presenting the electorate with a true choice, whereby voters may vote their conscience instead of engaging in strategic voting, will achieve a stronger and better democratic process.

SEC. 3. Purpose and Intent: The People of the State of California hereby declare their purpose and intent in enacting this act to be as follows: To institute a system whereby voters can rank their choices for any particular office, and those tabulating the votes use that ranking to hold an "instant runoff election" whereby the votes cast for a candidate who finishes last are reallocated to each voter's next choice, and the ballots tabulated again, repeated until such time as there is a winner.

Using this system, every voter is able to cast a vote choosing between the final two candidates left in the race.

As an example of what the people intend, in an election where there were five candidates, two independents, a Green Party, Democratic Party, and Republican party candidate, voters would be asked to rank each candidate. The ballot would look something like the following:

“Please rank each candidate in order of your preference. Mark ‘1’ for your first choice. If it is determined that your first choice has lost, your vote will be switched to your second choice. Mark ‘2’ for your second choice. If it is determined that your second choice has lost, your vote will be switched to your third choice, and so on. Mark each of your subsequent choices ‘3’ through ‘5’. If you do not wish to rank a candidate, simply leave the space next to that candidate’s name empty.”

When the ballots are counted, the candidate with the lowest number of votes is eliminated. All ballots are then recounted, but any time a voter’s chosen candidate has been eliminated, their vote is tabulated as if they had voted for their next choice. The candidate with the least votes in this runoff is eliminated. All ballots are then recounted, with the voter’s highest ranking choice still in the running counted as the voter’s choice. This process continues until all candidates but one are eliminated. That remaining candidate is the winner.

SEC. 4. A new Section 15450.5 is hereby added to the Elections Code as follows:

15450.5. Anywhere in this Elections Code where “a majority” vote is required to elect a person to office, and for any other race where only one candidate may be declared the winner:

(a) The ballot shall be presented to the voters in a manner that requests that voters rank the candidates according to their preference, with the most preferred candidate being ranked “1”, with the next most preferred candidate being ranked “2”, and so on. In this Section, the “highest ranked” candidate means the candidate with the ranking closest to number “1”.

(b) The ballots shall be counted in rounds. During the first round, the votes for all candidates shall be tabulated. The candidate receiving the least number of votes in the each round shall be eliminated. During each subsequent round, the votes for all remaining candidates shall be tabulated by counting each ballot as voting for the highest ranked candidate not yet eliminated. In the event a ballot has been voted in a manner that, at the start of any given round, all candidates that have been ranked have been eliminated, that ballot shall not be counted in that round. If, at the end of any round, a candidate has received a majority of the votes cast, that candidate shall be deemed the winner.

(c) In the event that there is a tie vote, the candidate with the greatest number of voters ranking that candidate as their first choice shall prevail. In the event that there is still a tie vote, the candidate with the greatest number of voters ranking

that candidate as their first or second choice shall prevail. The third and, if necessary, subsequent choices for each candidate shall be added to each candidate's total in the same manner and in separate rounds until such time as there is no longer a tie vote. If this mechanism does not resolve the tie, the tie shall be broken as prescribed by existing law.

(d) When votes in each "round" are tabulated for the purpose of determining the next candidate to be eliminated, all ballots eligible to vote in that race shall be considered. For each race, the Secretary of State shall coordinate the conduct of voting rounds across all precincts in which votes are cast, including receipt of returns, announcement of results of each round, and instructions as to the initiation of, and candidates remaining eligible for counting, in subsequent rounds.

(e) As soon as practicable after the adoption of this statute, the Secretary of State shall prescribe uniform minimum standards for ballots and ballot counting devices, which may include computerized and networked voting and vote tabulation systems, capable of tabulating votes as prescribed in this Section. The Secretary of State may require the use of specified brands of equipment if it determines such to be necessary to establish statewide uniformity. The Secretary of State shall certify, within one week of any request by a county or local government, whether devices named by that county or local government meet these standards. The State of California shall reimburse county and local governments for any funds expended on devices that have been certified as meeting these standards, so long as the devices being replaced have previously been certified as not meeting those standards.

Section 15451 of the Elections Code is hereby amended as follows:

15451. The person who receives *a majority* ~~the highest number~~ of votes at a primary election as the candidate of a political party for the nomination to an office is the nominee of that party at the ensuing general election.

15452. The person who receives *a majority* ~~plurality~~ of the votes cast for any office is elected or nominated to that office in any election, except:

(a) An election for which different provision is made by any city or county charter, *where that city or county charter provision has been adopted, or is readopted, subsequent to the effective date of this amendment.*

(b) A municipal election for which different provision is made by the laws under which the city is organized, *where that law has been adopted, or is readopted, subsequent to the effective date of this amendment.*

(c) The election of local officials in primary elections as specified in Article 8 (commencing with Section 8140) of Part 1 of Division 8.

SEC. 5. Effective Date

Except as otherwise provided, the provisions of this act shall become effective November 1, 2003, and its provisions shall be applied prospectively.

SEC. 6. Amendment

This act may be amended only by a roll call vote of two thirds of the membership of both houses of the Legislature. All amendments to this act shall be to further the act and shall be consistent with its purposes.

SEC. 7. Severability

If any provision of this act or the application thereof to any person or circumstances is held invalid or unconstitutional, such invalidity or unconstitutionality shall not affect other provisions or applications of this initiative that can be given effect without the invalid or unconstitutional provision or application, and to this end the provisions of this initiative are severable.