

Voice for Democracy

Newsletter of Californians for Electoral Reform

August 2014

Cumulative Voting Settles CVRA Lawsuits

by Kevin Shenkman

For the first eleven years of the California Voting Rights Act, no city, school district, community college district, water district, or hospital district implemented a fair-representation form of at-large elections in response to claims of vote dilution. Though the California Voting Rights Act (CVRA) eliminated the “majority-minority district” requirement of the federal Voting Rights Act (FVRA), and thus invited municipalities and districts to experiment with fairer systems like cumulative voting, limited voting and ranked-choice voting, every political subdivision sued under the CVRA ended up adopting district-based elections.

In 2013, on the heels of their victory over the City of Palmdale in a similar CVRA case that resulted in Palmdale being ordered to hold district-based elections coinciding with the statewide general elections in November of even years, voting rights advocates targeted the neighboring Santa Clarita Valley. Unlike Palmdale, where Latinos comprise 54% of the population and African Americans comprise another 15%, Santa Clarita’s minority population is significantly smaller – 30% Latino, and only 3% African American. The relatively small size and dispersion of Latinos in Santa Clarita meant that drawing a majority-Latino district would be unfeasible. Still, the effects of plurality at-large elections were stark – Latinos had achieved zero electoral success and were largely ignored by the politically-conservative council and board members.

Following a hearty debate in the community, and months of litigation, the City of Santa Clarita agreed to two changes to its elections: 1) elections for city council are to be held in November of even years, at the same time as the presidential and gubernatorial elections, rather than in April when turnout is an abysmal 10-15%; and 2) the voters will have cumulative voting rights, i.e. the ability to

allocate their multiple votes among the candidates however they see fit. This agreement is still subject to legal challenge, and the acquiescence of the Los Angeles County Board of Supervisors, but the process is moving forward to the first California city to employ cumulative voting in 2016.

It took longer for the Santa Clarita Community College District (SCCCD) to accept the much-needed changes to its electoral system, but SCCCDCD too settled its CVRA case on the first day of trial. SCCCDCD agreed to adopt district-based elections in 2021 if the 2020 Census indicates that a Latino-majority district could be drawn, but in the interim SCCCDCD will: 1) move its elections to November of even years; 2) employ cumulative voting; and 3) eliminate its dilutive designated seats. In the view of the voting rights advocates who pressed this case, this resolution presents the best of both worlds – there is a place for district-based elections and equally a place for fair-representation at-large elections, and this settlement sets SCCCDCD on the path to fair elections for years to come as its demographics change.

There are still some politicians and elections officials who argue that cumulative voting, and other fair-representation at-large election systems, are not permitted in California. They are plainly wrong, and it is unfortunate that their narrow and short-sighted views are preventing them from realizing the benefits of this progress in California elections. As these electoral systems prove to be successful in Santa Clarita and elsewhere in California, as they have been in other states, even the most adamant opponents of fair-representation election systems will be forced to concede that there is a better way of electing councils and boards than the antiquated plurality at-large system.

Kevin I. Shenkman is an attorney with Shenkman & Hughes in Malibu and represented the plaintiffs in each of the three CVRA lawsuits mentioned in this article.

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Bill to Preserve Third Parties

by Richard Winger

On August 26, the California legislature passed AB 2351. It makes it easier for a group to qualify as a "party." It changes the registration test from 1% of the last gubernatorial vote to 0.33% of the total number of registered voters.

For 2014, a group needed 103,004 registered members to either obtain, or keep, qualified status. Although no one can know how many voters there will be in 2016, the last tally (May 2014) showed California had 17,722,006 registered voters, and 0.33% of that number is 58,483.

The Peace & Freedom Party will now remain ballot-qualified. At the last tally it had 78,345 registrants.

The bill also says that a party remains qualified if it polls 2% for a statewide race in the primary in midterm years. This is an alternate to the registration test. The Peace & Freedom, Green, and Libertarian parties met this vote test in June 2014. Americans Elect did not, and has fewer than 6,000 registrants, so it will be disqualified in November 2014 unless it has an unexpected registration surge.

One impact of the change is that now North Carolina and Oklahoma, not California, require support from the

largest number of voters for a group to qualify as a party. North Carolina requires 89,366 signatures and Oklahoma requires 66,744. Activists in both states will be lobbying for easier access in the 2015 legislative sessions in those states, and the fact that those two states require more signatures than any other state will be a useful tool for persuasion.

Richard Winger is a CfER Board member and publisher of *Ballot Access News*

President's Letter

I have little room for my letter so I'll keep this brief.

We're attempting to stick to our schedule of a newsletter every three months. I think shorter more frequent newsletters are better than longer but less frequent ones. As our next newsletter won't appear until after the November election, we're reprinting the answers to our questionnaire from the two Secretary of State candidates who will appear on the November ballot.

AB 2351 (see article by Richard Winger) is on the Governor's desk. Call him at 916-445-2841 or go to gov.ca.gov and ask him to sign it.

More next time.

– Steve Chessin, President

Secretary of State Survey Responses

The May edition of *Voice for Democracy* contained a survey of all the SoS candidates running in the Primary election. This edition reprints the responses from the two candidates who will appear on the November General election ballot.

QUESTION 1

Do you support using proportional representation to elect local governing bodies and the California legislature?

Alex Padilla

I support local, geographic-based representation for the state legislature. I believe it is vital for voters to have an elected representative accountable directly to their constituents and capable of addressing local concerns at the district level. I support allowing local bodies the right to determine their own electoral systems that ensure a fair and equal voice for all voters.

Pete Peterson

No. While I would support the right of a local citizenry to form this kind of gov't, I see proportional representation as generally forming weak governing bodies where it is difficult for voters to find who is accountable for a gov'ts poor performance.

QUESTION 2

Do you support giving general law cities and all counties the same option that charter cities have of using instant runoff voting for their single-winner municipal elections?



Pete Peterson

Yes. While I am not convinced that IRV is the best elections process, I support communities in making their own decisions (within the bounds of our State and Federal Constitutions) about how they will conduct elections.

Alex Padilla

I have long supported efforts at the local level to increase turnout, protect voting rights for all and administer elections in a way that takes into account important local concerns. To that end, some local cities have adopted instant runoff voting. Other cities and counties have adopted policies, like district elections and early voting, to best serve their constituents. I will continue to support any effort to give voters more voting options, increase civic engagement and participation, and ensure local election systems are a good fit for the local electorate and local concerns. At the same time, I believe certain standards have to be set at the state level to protect voting rights and ensure fair representation. That's why I authored the bill to ensure charter city votes occur in general elections with higher turnout and more participation and why I've supported the efforts in numerous local cities to move towards district rather than at-large elections.

QUESTION 3

Do you support giving general law cities and all counties the same option that charter cities have of using multi-winner RCV proportional representation to elect their governing bodies?

Alex Padilla

Ranked choice voting has worked well in some parts of California where voters have formally approved a change in voting format at the ballot box and where local elections officials have worked to educate the electorate about their new voting system. Any significant change to a system like RCV must be approved by the voters. While I do not believe RCV is appropriate every part of California, I certainly understand the appeal in ensuring a more diverse candidate field, giving voters more voting options and eliminating runoff elections.

Pete Peterson

Yes.

QUESTION 4

Do you support giving general law cities and all counties the same option that charter cities have of using cumulative voting to elect their governing bodies?

Pete Peterson

Yes.

Alex Padilla

Protecting voting rights for all and ensuring fair representation for minorities and underrepresented groups is a top priority in elections administration. To that end, a system like cumulative voting where voters can concentrate their votes for their favored candidates has its advantages. At the same time, district elections and local efforts to increase civic engagement and voter registration may accomplish the same goals in a simpler, more direct way. Regardless of the format, we must continue to work to get more voters engaged in local elections and ensure that local governments are as responsive as possible to local concerns.

QUESTION 5

What issues and requirements, if any, specific to IRV, multi-winner RCV, and/or cumulative voting, do you foresee in developing regulations for certifying new voting equipment that supports those election methods? How would you address those issues and requirements?



Alex Padilla

I am proud to be the only candidate running for Secretary of State who has pledged to visit all 58 counties and meet with local elections officials in every county in California. I've made this pledge because I know Sacramento doesn't have all the answers and that every community in California is unique and has its own issues and concerns when it comes to elections and voting. I've already met with the registrars for San Francisco and Alameda counties, two of the main jurisdictions using alternative voting methods. I would work closely with local elections officials throughout California when developing voting regulations.

Pete Peterson

Voting equipment under these conditions would have to be able to “count” multiple votes for the same office, and further be able to “count” votes cast for second/third place.

QUESTION 6

What is your opinion of the top-two primary in particular and two-round runoff systems (as used by many local jurisdictions) in general? What are your thoughts about replacing the top-two primary with, for example, a single IRV election with all the candidates in November, or a “top-four” system that winnows the field to four candidates in June and then uses IRV to determine the final winner in November? Do you have other ideas as to how to ensure that the most popular candidates advance to a later, final-round general election or runoff?

Pete Peterson

I generally favor the top-two primary, but acknowledge the challenges it presents to smaller Parties. My initial solution would be to make it easier for voters to cast “write in” votes in the General election, but I would be open to exploring the “top-four” system you describe above.

Alex Padilla

Beyond an election's format, the essential question we have to answer in California is how to get more voters engaged and participating in our democracy. Regardless of an election's format, we know that currently, there are millions of Californians who do not vote and millions of Californians who aren't even registered. We need to work to engage more Californians in voting. That's why I've pledged to register a million more voters in my first term as Secretary of State and prioritize visiting high schools throughout California to cultivate civic engagement among the next generation of California voters. At the same time, we also must work to increase trust and confidence of government. That's why I've introduced a tough package of campaign finance reforms in the state legislature to ban fundraising during the last 100 days of session and strengthen campaign finance disclosure and reporting. By working to engage more Californians in elections, and working to institute reforms to restore trust in government, we can strengthen our democracy.

QUESTION 7

This space is for anything else you would like to say that would be of interest to our members.

Alex Padilla

[No further comments received – ed.]

Pete Peterson

About 10 years ago, I left a private sector career to pursue a passion of mine - getting more citizens involved and informed about the decisions that affect our everyday lives. That was not the best financial decision for me or my family, but it has taken me all over this great state consulting with and training government officials to be more engaging of their residents - either through better processes or better technology. My work has not been about pushing a community towards a certain decision, but to make sure the process they used was the most transparent and participatory. I bring this perspective and background to this run for Secretary of State - my dream job.



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	edwardtlp@sbcglobal.net
San Francisco	Richard Winger	415-922-9779	richardwinger@yahoo.com
San Luis Obispo Cnty	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



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Editor: Jim Stauffer
Proofreader: Steve Chessin

Distribution:
Richard Winger
and Bob Richard

Contributors:
Kevin Shenkman,
Richard Winger,
Steve Chessin,

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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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