Date of Hearing: June 29, 2016

ASSEMBLY COMMITTEE ON ELECTIONS AND REDISTRICTING
Shirley Weber, Chair
SB 1288 (Leno) – As Amended June 15, 2016

SENATE VOTE: 24-12

SUBJECT: Elections: local voting methods.

SUMMARY: Authorizes a general law city, a general law county, or an educational district, as specified, to conduct a local election using ranked choice voting (RCV), as specified. Permits a general law city, a school district, and a district not formed for municipal purposes to elect a candidate for nonpartisan office at a primary election by majority vote, instead of a plurality vote, as specified. Specifically, **this bill**:

1) Allows a general law city, a school district, and a district not formed for municipal purposes to require a candidate for nonpartisan office that does not receive a majority of all votes cast in a primary election to appear in a general or runoff election, instead of being required to elect officials using a single, plurality election. Requires a proposal to conduct local elections by majority vote to be submitted to the electors of the jurisdiction at a regularly scheduled election and become operative only if a majority of votes cast favor adoption of the proposal.

2) Allows a general law city, a general law county, county board of education, school district, or community college district, with voter approval, to conduct a local election using RCV, as specified. Provides that RCV may be authorized for use in local elections by a resolution or ordinance adopted by the local jurisdiction's governing body or by an initiative measure, subject to the following requirements:

   a) The proposal must specify whether the members shall be elected at-large or by or from districts, as specified.

   b) The proposal to elect members or local officers by RCV shall only apply prospectively and shall not become operative unless it is submitted to the electors of the jurisdiction at a regularly scheduled election and a majority of the votes cast on the question favor the adoption of the proposal.

   c) Any member or local officer elected to a full term by RCV shall only be elected in a general election held in November of an even-numbered year.

   d) Provides that a local jurisdiction is not authorized by these provisions to elect members or officers at-large if it is required by a court order or judgement to elect its members or officers by or from districts or trustee areas, as specified.

   e) Requires a special election to fill one or more vacancies by RCV and an election to elect one or more other members of the local jurisdiction's governing body to full terms using RCV that are held on the same day to be consolidated into a single contest if the governing body is elected at-large or the contests to be consolidated are for members elected by or from the same district or trustee area.

3) Permits a county elections official, if a county board of education, school district, or community college district authorizes the use of RCV, to certify that the county lacks the technological capacity to conduct elections by this method before that method is used in any election, as specified. Requires the elections official to provide this certification at least seven days, and not more than 60 days, before the later of 113 days before the election or the first day on which a declaration of candidacy may be filed. Requires a county board of education, school district, or community college district, if a county elections official provides the certification described above, to conduct its next election in the same manner as its most recent election was conducted.

4) Requires a jurisdiction that uses RCV or changes from a plurality vote method to a majority vote method pursuant to this bill, to conduct a voter education and outreach campaign before each election conducted and until the conclusion of the second general election conducted in this manner. Requires a campaign to include public meetings and public service announcements on radio, television, or in print media, including media serving additional supported language communities, if available, to familiarize voters with that election method. Requires materials and information disseminated as part of the campaign to be provided in all additional supported languages and be accessible to individuals with disabilities.

5) Defines the following terms for the voter education and outreach provisions of this bill:

   a) "Additional supported language" means a language for which a jurisdiction is required to provide voting materials and assistance under the federal Voting Rights Act of 1965 or for which the Secretary of State (SOS) has determined that it is necessary to provide facsimile ballots at a precinct within the jurisdiction pursuant to existing law.

   b) "Additional supported language community" means a community that speaks an additional supported language.

6) Requires a jurisdiction, in collaboration with the county elections official, to develop a plan describing how it will conduct the voter education and outreach campaign. Requires the plan to include all of the following information:

   a) How the jurisdiction will use media, which may include social media, newspapers, radio, and television, to inform voters about an upcoming election;

   b) What information will be publicly available on the elections official's Internet Web site;

   c) What information will be included in the sample ballot and vote by mail materials;

   d) How the jurisdiction will conduct direct outreach to voters, including voters with disabilities;

   e) How the jurisdiction will have a community presence to educate voters, including voters with disabilities; and,

   f) How the jurisdiction will educate voters within each additional supported language community, as defined.

7) Requires a jurisdiction, before finalizing a plan to publish a draft plan and hold, at least 10 days after publication of its draft plan, at least two public meetings to discuss the plan. Requires the jurisdiction to make a good faith effort to invite each of the following to at least one of those public meetings:

a) Representatives, advocates, and other stakeholders representing each additional supported language community; and,

b) Representatives from the disability community and community organizations and individuals that advocate on behalf of, or provide services to, individuals with disabilities.

8) Requires a public meeting to be noticed 10 days in advance and be held in a location that is accessible to people with disabilities. Requires a jurisdiction, if requested to do so at least 48 hours before a public meeting, to provide either or both of the following:

a) Reasonable accommodations and modifications, and auxiliary aids and services to ensure effective communication with people with disabilities; and,

b) Translation services in any additional supported language.

9) Requires all materials provided by the voter education and outreach campaign, including materials provided on the Internet Web site of the elections official, sample ballots and vote by mail materials, and materials provided through direct outreach and community presence, to be provided in the additional supported languages and be accessible to individuals with disabilities.

10) Provides that RCV is a method that allows voters to rank candidates for office in order of preference and that elections conducted by RCV may be used for both single-winner and multiple-winner elections. Provides that elections conducted by RCV are tabulated in rounds, as specified by this bill.

11) Defines the following terms for the RCV provisions of this bill:

a) "Abstention" means a ballot that is to be counted for the highest-ranked continuing candidate, but that does not contain a highest-ranked continuing candidate or overvote, and the voter did at least one of the following:

i) Failed to assign an available ranking to every qualified candidate and the ballot allowed the voter to rank an additional qualified candidate without creating an overvote ranking; or,

ii) Assigned a qualified candidate two or more different rankings.

b) "Continuing candidate" means a qualified candidate who has not yet been elected or defeated.

c) "Highest-ranked continuing candidate" means the continuing candidate on a ballot assigned a ranking with a numerical value that is lower than the ranking for both of the

following:

    i)   Any other continuing candidate; or,

    ii) Any overvote ranking on the ballot.

d) "Instant runoff voting" means a system of RCV used to elect a single candidate to office.

e) "Majority of votes" means greater than 50-percent of the votes counting for all continuing candidates.

f) "Other exhausted vote" means a ballot that is to be counted for the highest-ranked continuing candidate, but that does not contain a highest-ranked continuing candidate or overvote, and is not an abstention.

g) "Overvote" means a ballot that is to be counted for the highest-ranked continuing candidate, contains an overvote ranking, and does not contain a highest-ranked continuing candidate.

h) "Overvote ranking" means a ranking assigned to more than one qualified candidate.

i) "Ranking" means the number assigned to a candidate to indicate a voter's preference for that candidate. The ranking with the lowest numerical value indicates the voter's first-choice preference, with the ranking increasing in numerical value as the voter's preference decreases.

j) "Single transferable vote" means a system of RCV used to elect two or more candidates to office.

12) Provides that a ballot that does not contain a highest-ranked continuing candidate shall not count for any candidate, but rather shall count as an overvote, abstention, or other exhausted vote. Provides that if two or more candidates are tied with the fewest number of votes, the candidate to be defeated shall be determined by the lot, publically conducted with notice.

13) Requires a ballot to allow voters to assign a different ranking to each candidate and at least two write-in candidates. Permits an elections official, if a jurisdiction's voting equipment cannot feasibly accommodate that number of rankings on the ballot, to limit the number of choices a voter may rank to the greater of three candidates or the maximum number allowed by the equipment.

14) Requires an elections official, in an election conducted by RCV, to provide ballot instructions in the following form:

"To vote in this election, indicate your first-choice candidate by selecting or marking a "1" in the voting square to the right of that candidate, a "2" in the voting square to the right of your second-choice candidate, a "3" in the voting square to the right of your third-choice candidate, and so on. Do not give the same number to more than one candidate. You may rank as many or as few of the candidates as you choose, up to the limit specified, if any. Your second choice will not affect your first choice; your third

choice will not affect your first two choices, and so on. You may include one or more qualified write-in candidates in your rankings by writing each write-in candidate's name in one of the blank spaces provided for that purpose after the names of the other candidates for the same office, and then writing the desired ranking in the voting square to the right of that name."

15) Requires an election using instant runoff voting (IRV) to be tabulated in a series of one or more rounds, each conducted with the following steps:

   a) Each ballot shall count as one vote for the highest-ranked continuing candidate on that ballot.

   b) The tabulation shall be complete if either of the following situations occur:

      i) There is only one continuing candidate, in which case that candidate shall be designated as elected; or,

      ii) There are exactly two continuing candidates, in which case the candidate with a majority of votes shall be designated as elected, and the other candidate shall be designated as defeated.

   c) If a continuing candidate has a majority of votes and the elections official determines that tabulation cannot feasibly continue until there are only two continuing candidates, the majority candidate shall be designated as elected, all other continuing candidates shall be designated as defeated, and the tabulation shall be complete.

   d) If a candidate satisfies both the following conditions, then all candidates with fewer votes may be designated as defeated:

      i) At least one other candidate has at least as many votes as the candidate; and,

      ii) The candidate has more votes than the total votes for all candidates with fewer votes.

   e) If a candidate was not designated as defeated in this round pursuant to subdivision (d), the continuing candidate with the fewest votes shall be designated as defeated.

   f) Each ballot counted for a candidate as defeated pursuant to subdivision (d) and (e), shall be transferred to and counted for the highest-ranked continuing candidate on the ballot.

16) Requires an election using single transferable vote (STV) to be tabulated in a series of one or more rounds, each conducted with the following steps:

   a) In the first round:

      i) All ballots shall be counted, and each ballot shall be counted for the highest-ranked continuing candidate on that ballot, using a transfer value of one vote. The "transfer value" of a ballot is the one vote or portion of a vote after a surplus transfer pursuant to subdivision (f) below that the ballot will contribute to the vote total for the ballot's highest-ranked continuing candidate.

ii) The "threshold," which is the number of votes in excess of which a candidate will be designated as elected, shall be determined by dividing the total number of ballots counting for all candidates pursuant to paragraph (1) by one more than the number of offices to be filled and rounding up the quotient to five decimal places.

b) For each continuing candidate, the votes for the candidate are the sum of the transfer values of all ballots counted for that candidate.

c) In the first round, if the number of continuing candidates is less than or equal to the number of offices to be filled, all continuing candidates shall be designated as elected, and the tabulation is complete.

d) Each continuing candidate with votes in excess of the threshold shall be designated as elected, and his or her votes in excess of the threshold calculated shall be treated as his or her surplus.

e) If the number of candidates designated as elected is equal to the number of offices to be filled, all continuing candidates shall be designated as defeated, and the tabulation shall be complete.

f) For each candidate that is designated as elected and has a surplus, the surplus of that candidate shall be transferred as follows:

i) The surplus factor for the candidate shall be calculated as the quotient, rounded down to five decimal places, of the candidate's surplus divided by the total number of votes for the candidate.

ii) Each ballot counted for the candidate shall be transferred to, and counted for, the highest-ranked continuing candidate on that ballot using a new transfer value, calculated as the product, rounded down to five decimal places, of the old transfer value times the candidate's surplus factor.

iii) "Residual surplus" means the number of surplus votes not transferred due to rounding. The residual surplus for the transfer equals the surplus for the candidate minus the sum of the new transfer values for every ballot transferred from the candidate. The residual surplus shall not be counted for any candidate or be part of other exhausted votes.

iv) After the candidate's surplus is transferred and his or her residual surplus is calculated, the candidate does not have a surplus, and the candidate's vote total for the remainder of the tabulation shall be equal to the threshold.

g) If a surplus was not transferred in this round pursuant to subdivision (f), the continuing candidate with the fewest votes shall be designated as defeated. If the number of continuing candidates plus the number of candidates that have been designated as elected equals the number of offices to be filled, all continuing candidates shall be designated as elected and the tabulation is complete. Provides that each ballot that counted for the defeated candidate shall be transferred to, and counted for, the highest-ranked continuing candidate on that ballot using the current transfer value and after all ballots have been

transferred, a defeated candidate shall have zero votes.

17) Permits the SOS to promulgate regulations authorizing modifications to the vote-counting methods described in this bill if the modifications do not change which candidates are elected.

18) Provides that if two or more candidates are elected in the same contest, and the offices to be filled by the contest have terms of different remaining lengths, the candidates shall fill the offices based on the number of votes they received in the first round so that a candidate with a higher first-round vote total fills an office with an equal or longer term.

19) Provides the following terms for the RCV reporting provisions of this bill:

    a) "Contest cast selections record report" means a report that lists all of the following for each ballot counted in the tabulation:

        i) The candidate or candidates indicated at each ranking;

        ii) The precinct in which the ballot was cast; and,

        iii) Whether the ballot was cast by mail.

    b) "Contest tabulation report" means a report that lists the following:

        i) The number of ballots counted;

        ii) The votes received by each candidate in each round of the tabulation; and,

        iii) The cumulative number of votes counted as an overvote, abstention, other exhausted vote, and cumulative residual surplus in each round of the tabulation.

    c) "Tabulation by precinct report" means a report that, for each precinct, lists all of the information required in a contest tabulation report.

20) Requires an entry in the contest tabulation report, for a given tabulation, to equal the total of all corresponding precinct entries that are in the tabulation by precinct report. Provides that whether a candidate is designated as elected or defeated, and the round in which a candidate is designated as elected or defeated, shall be the same for the contest tabulation report and for every precinct in the tabulation by precinct report.

21) Requires the votes for each round in a contest tabulation report or in a tabulation by precinct report to be reported, as specified.

22) Requires ballots, in a contest cast selections record report, to be listed in a manner that does not permit the order in which they were cast in each precinct to be reconstructed. Provides that an overvote ranking may be reported without reporting to which qualified candidates the ranking was assigned.

23) Requires an elections official to publish a contest tabulation report for the final tabulation of the official canvass in conjunction with the certified statement of the results. Requires the elections official to also publish at least one of the following reports for the final tabulation of the official canvass:

   a) A tabulation by precinct report; or,

   b) A contest cast selections record report.

24) Permits an elections official, if the elections official determines that tabulation of all rounds is not feasible on election night, to provide the contest tabulation report totals for only the first round of tabulation or only a tally of the rankings of "1".

25) Requires the elections official, for a contest that is tabulated with a voting system, to do all of the following:

   a) Tabulate the results as soon as the elections official determines it is feasible after the close of the polls, and publish the corresponding contest tabulation report;

   b) Tabulate the results for the last preliminary results on election night and publish a corresponding contest tabulation report; and,

   c) Publish the corresponding contest cast selections record report whenever the results of a tabulation is published, as specified.

26) Requires an elections official to promptly post a report made available to the public on his or her official Internet Web site. Requires a contest cast selections record report made available to be provided in a plain text electronic format. Requires an elections official, if an elections official does not have an official Internet Web site, to promptly make the report available to the public by other means and notify the public of the report's location through a notice prominently displayed in an appropriate location in his or her office.

EXISTING LAW:

1) Provides, in general, that any candidate for a nonpartisan office who receives votes on a majority of all the ballots cast for that office at a primary election is elected to that office and prohibits the office from appearing on the ballot at the ensuing general election. Provides that where two or more candidates are to be elected to a given office and a greater number of candidates receives a majority than the number to be elected, those candidates that receive the highest number of votes proceed to the general or run-off election, as specified.

2) Requires certain local jurisdictions to determine the winning candidate in a single election by a plurality of votes cast.

3) Does not allow a general law city, general law county, school district, or special district to conduct local elections using RCV.

FISCAL EFFECT: According to the Senate Appropriations Committee, pursuant to Senate Rule 28.8, negligible state costs.

COMMENTS:

1) **Purpose of the Bill**: According to the author:

   Under current law, general law cities are only allowed to hold plurality winner elections (i.e. most votes wins, even if the winner has less than majority support). See Elec. Code Sec. 15452 and Gov. Code Sec. 34871. (Charter cities, on the other hand, are given more flexibility in selecting voting systems under constitutional home rule protections. See Cal. Const. art. XI, § 5(b).) Under current law, general law cities are prohibited from using the majoritarian voting systems commonly used by charter cities and counties in California, for example the traditional runoff or Ranked Choice Voting (RCV).

   While all voting systems have trade-offs, restricting general law cities to plurality elections locks them into a voting system that does an especially poor job of reflecting voter preferences. Plurality voting has a number of well-recognized drawbacks:

   - First, it is not clear that a candidate elected by plurality is a true "representative" of that area, as a majority of the electorate voted for other candidates. Plurality voting can even enable a candidate who is least liked by the majority of voters to get elected due to vote-splitting, commonly referred to as the "spoiler effect." Non-majority winners happen frequently under plurality voting. In fact, from 2006-2014, a candidate for a single-seat local office was elected with less than a majority 13% of the time; when looking only at races with 3 or more candidates, the winner is elected by a mere plurality 42% of the time.

   - Second, candidates who are elected by plurality may enter office with a weak mandate, harming their ability to govern.

   - Finally, plurality voting encourages insincere voting – due to fears of "wasting their vote" or flipping an election to the candidate they least like, plurality election systems actively discourage voters from casting their ballot for the candidate that best represents their preferences.

   This bill would give local governments (cities, counties, school districts, community colleges) the ability to adopt a voting system that best matches the needs of their community. It does not impose any new voting system, but simply gives local jurisdictions additional options which ensure that candidates are elected with majority support. In particular, this bill would authorize local governments to adopt, in addition to plurality voting:

   - Traditional two-round runoff: if no candidate receives over 50% of the vote, a second election is held between the top two vote getters to determine who wins. Los Angeles, San Diego, San Jose, Sacramento, and many counties use this system.

- Ranked Choice Voting: voters rank the candidates on their ballots. Votes are counted in runoff elimination rounds until only two candidates remain, eliminating the need for a second election. This bill would also authorize local governments to use the multi-seat version of RCV. Several cities, including San Francisco and Oakland use RCV.

Numerous other general law cities and counties are exploring using ranked choice voting, and the Legislature should allow these cities the flexibility they need to serve their voters. Cities and counties deserve the opportunity to use the electoral systems that best address their unique needs.

2) **Plurality Vote Method and Majority Vote Method:** Plurality voting, also known as "winner-take-all" or "first-past-the-post," gives all representation to the candidate finishing first. In plurality voting, each voter selects one candidate, and the candidate with the largest number of votes is the winner regardless of whether the winner receives a majority (50% +1) of the vote. Plurality voting method may be used for a single candidate election or for electing a group of candidates, such as a council or committee. In a majority vote method a voter votes for one candidate and the candidate with the majority (50%+1) of the votes wins. Commonly used majority vote methods include traditional run-off and RCV.

Current law generally provides that any candidate for a nonpartisan office who receives a majority of votes from all the ballots cast for a office at a primary election is elected to that office and prohibits the office from appearing on the ballot at the ensuing general election. Additionally, existing law provides that if two or more candidates are elected to a given office, the candidates that receive the highest number of votes proceed to a general or run-off election, as specified. Certain local jurisdictions, however, are excluded from these provisions. Current law specifically excludes a general law city, school district, and special district from using a majority vote primary election method and instead only permits these jurisdictions to use a single, plurality election method.

This bill changes this policy and instead permits a general law city, a school district, or a district not formed for municipal purposes to elect a candidate for nonpartisan office at a primary election by majority vote, instead of a plurality vote. Additionally, this bill requires a local jurisdiction that wants to change from a plurality election method to a majority election method to submit a proposal to the electors of the jurisdiction at a regularly scheduled election and requires a majority of the votes cast on the question to favor the adoption of the proposal. Finally, if the voters approve a change in election method, this bill requires the jurisdiction to conduct a voter education and outreach campaign to familiarize voters with the new election method, as specified.

3) **Ranked Choice Voting**: RCV is a style of voting that allows voters to rank a first, second and third choice candidate instead of selecting a candidate (e.g., checking a box). RCV includes both IRV and STV. Generally, IRV is used for electing a single candidate and STV is used for electing multiple candidates with proportional representation.

Under RCV, for single winner elections, if a candidate receives a majority (50%+1) of the first-choice votes cast for that office, that candidate will be elected. However, if no candidate receives a majority of the first-choice votes cast, an elimination process begins. The candidate who received the fewest first-choice votes is eliminated. Next, each vote cast for

that candidate will be transferred to the voter's next-ranked choice among the remaining candidates. This elimination process will continue until one candidate receives a majority and is deemed the winner.

For an election to elect two or more candidates to office, a minimum threshold of votes necessary to be elected will be determined according to a specific formula. All ballots are counted and each ballot will be allocated as a vote to the candidate receiving the highest ranking. Each candidate that receives the minimum threshold of votes necessary to be elected will be declared elected.

4) **Charter vs. General Law Jurisdictions**: Three cities and the City and County of San Francisco have all chosen to conduct local elections using RCV. These jurisdictions were able to choose to use RCV because they are charter cities. Certain home rule provisions in California's state constitution allow cities and counties to exercise a greater degree of control over local affairs by adopting a charter. According to information from the League of California Cities, 121 of California's 482 cities are charter cities, and according to information from the California State Association of Counties, 14 of California's 58 counties are charter counties. Cities and counties that are not charter jurisdictions are commonly known as "general law" jurisdictions.

Under current law the only way in which a general law city or a general law county may conduct elections using RCV is to become a charter jurisdiction. This bill sets up a new mechanism that authorizes a general law city, a general law county, and specified educational jurisdictions, with voter approval, to conduct local elections using RCV. Specifically, this bill requires a proposal to elect members or local officers by RCV to only apply prospectively and prohibits RCV from becoming operative until it is submitted to the electors of the jurisdiction at a regularly scheduled election and a majority of the votes cast on the question favor the adoption of the proposal. In addition, if the voters approve the change in election method, this bill requires the jurisdiction to conduct a voter education and outreach campaign to familiarize voters with the new election method, as specified.

5) **Jurisdictions Using RCV in California**: As noted by the author, a handful of charter cities use RCV to conduct local elections for certain local offices. Oakland, San Francisco, San Leandro, and Berkeley have all used RCV for certain local elections.

In 2002, voters of the City of and County of San Francisco approved a charter amendment to conduct certain local elections by RCV. Since the approval, San Francisco has conducted elections using RCV in almost all November general elections from 2004 to 2015. Moreover, in 2006, voters in Oakland approved a charter amendment to conduct local elections using RCV and in 2010, voters in the cities of Berkeley and San Leandro also approved charter amendments to conduct certain local elections using RCV. Since 2010, the cities of Berkeley, Oakland and San Leandro have conducted elections using RCV in November 2010, November 2012, and November 2014.

6) **Lack of RCV-Capable Certified Voting Systems**: There are no voting systems currently certified for general use in California that have the capability to tabulate ballots cast in an RCV election. The voting system first used in San Francisco for its elections conducted using RCV was conditionally approved by the SOS for use in San Francisco's elections on April 30, 2004, which permitted San Francisco to use the system on a one time basis for the

November 2004 general election. After receiving reports on the system's performance in that election at a public hearing on February 17, 2005, the SOS conditionally approved the system for use from March 7, 2005 until December 31, 2005 only in the City and County of San Francisco. On August 3, 2006 the SOS received an application requesting a one time, final approval of the system for use in the November 2006 general election. That application was approved, under the condition that the system not be used again for any election in California. Nonetheless, on September 14, 2007, the SOS approved the use of the San Francisco's voting system through December 31, 2008.

San Francisco subsequently obtained a different RCV-capable system, but that system also was approved on a "one time" basis for the November 2008 general election and again for use in the May 2009 statewide special election. Subsequently, San Francisco has been granted extensions of previous approvals to use its RCV-capable system for elections held through the calendar years of 2010, 2011, and 2012.

Similar to San Francisco, Alameda County was also able to conduct elections using RCV due to a series of "one time" approvals and extensions of previous approvals. In 2009 Alameda County was granted a one time approval by the SOS to use the same voting system that San Francisco used for the 2010 consolidated gubernatorial general election, so that elections in the cities of Berkeley, Oakland, and San Leandro could be conducted using RCV in accordance with the city charters in those cities. In granting that approval to Alameda County, the SOS imposed a number of conditions on Alameda County's use of the system, including a requirement that extensive voter education and outreach be conducted for voters in Berkeley, Oakland, and San Leandro. Again, similar to San Francisco, Alameda County has been granted extensions of previous approvals to use its RCV-capable system for elections held through the calendar years of 2011 and 2012.

In 2013, based on San Francisco and Alameda counties success in conducting multiple elections using RCV-capable voting systems, the SOS approved use of the RCV system to both counties. However, despite the fact that the RCV voting system has been certified for use in both San Francisco and Alameda counties, the use of the RCV system is limited to only those jurisdictions. No other city or county in California are allowed to purchase and use that system for an election in California without separate approval by the SOS.

7) **Right of Refusal**: This bill permits a county elections official, if a county board of education, school district, or community college district authorizes the use of RCV before that method is used in any election, to certify that the county lacks the technological capacity to conduct elections by RCV, as specified. Additionally, this bill requires a local jurisdiction, if a county elections official provides the certification, as specified, to conduct its next election in the same manner as its most recent election was conducted. These provisions, however do not apply to general law cities or general law counties.

On a practical level these provisions are reasonable as county elections officials typically administer elections for educational jurisdictions. However, county elections officials also administer many elections for cities. If voters of a general law city voted to approve the use of RCV to conduct their local elections, could a county elections official be forced to acquire new voting equipment in order to administer the city's elections?

8) **Regularly Scheduled Elections and Suggested Committee Amendment**: As mentioned above, this bill allows a general law city, a general law county, a county board of education, a school district, and a community college district, with voter approval, to conduct local elections using RCV. Specifically, this bill requires a proposal to elect members or local officers by RCV to only apply prospectively and prohibits the proposal from becoming operative unless it is submitted to the electors of the jurisdiction at a regularly scheduled election and a majority of the votes cast on the question favor the adoption of the proposal. According to the sponsors of the bill, the intent is to require a RCV proposal to be submitted to the jurisdiction's voters at a regularly scheduled election, not a special election. Committee staff, however, found a drafting error, which allows a general law city to submit a RCV proposal to voters at a special election and recommends amending the bill to fix the error.

9) **Technical Amendments**: The committee staff recommends the following technical amendments:

   On page 16, in line 28, delete the word "both."

   Add Senator Hancock as a co-author.

10) **Arguments in Support**: In support, Asian Americans Advancing Justice – California, writes:

   Under current law, general law cities and school districts must use "first-past-the-post" voting, where the candidate with the most votes represents everyone else even if they received far less than majority support. Such results due to vote splitting undermine the assurance of fairer representation that elections by district or by trustee area should provide.

   Advancing Justice – California supports ranked choice voting to help more voters fully participate in electing candidates of their choice in a single, high turnout election. For example, SB 1288 requires consolidation of county elections with the November state general election if ranked choice voting is used, thus avoiding lower turnout and less representative elections in June. Bay Area cities that switched to ranked choice voting have seen high percentages of women and people of color being elected in such consolidated elections. For example, in San Francisco the 11-member Board of Supervisors went from having four minority members before ranked choice voting to eight today.

   We also support using ranked choice voting as an alternative to winner-take-all-elections in at-large elections, especially when historically under represented voters are geographically dispersed and cannot be adequately represented by districts or by trustee areas. Allowing voters from across a district to combine their votes and reducing the percentage of votes needed to win a seat creates new access for racial and ethnic minority voters and can allow their elected numbers to increase as their share of the electorate grows.

   Local jurisdictions should have access to these election methods which better ensure elected officials are representative of their electorates. Voters deserve options to avoid

the problems of vote splitting and spoiler effects. A group of like-minded voters should not be penalized just because there are a few more candidates seeking their votes.

11) **Previous Legislation**: Since 2006 there have been numerous prior bills intended to permit local jurisdictions to use RCV for either regular or special elections. All of these bills either failed passage in the Legislature or were vetoed by the Governor, including all of the following: SB 596 (Bowen) of 2006, AB 1294 (Mullin and Leno) of 2007, AB 1121 (Davis) of 2009, AB 2732 (Eng) of 2010 and SB 1346 (Hancock) of 2010.

REGISTERED SUPPORT / OPPOSITION:

Support

California Common Cause (co-sponsor)
Californians for Electoral Reform (co-sponsor)
Asian American Action Fund
Asian Americans Advancing Justice – California
Democracy for America
FairVote
League of California Cities
League of Women Voters of California
Mendocino County Board of Supervisors
Oakland Rising
Southwest Voter Registration Education Project
One Individual

Opposition

None on file.

Analysis Prepared by: Nichole Becker / E. & R. / (916) 319-2094