



The Center for  
Voting and Democracy

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To Members of the New York State Assembly Election Law Committee  
From FairVote  
Date February 25, 2014  
Re Letter of Support for A.7013-A (Kavanagh)

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FairVote is a national, nonpartisan, non-profit organization dedicated to research and analysis of the impact of electoral rules on turnout and representation. We regularly work in New York State, and have two New York-based board members: Hendrik Hertzberg and Tim Hayes. We are writing to express our strong support for A.7013-A (Kavanagh), which, by enacting instant runoff voting for New York City's citywide primaries, will make elections more representative while easing administrative burdens and costs accompanying New York City's current primary runoff elections.

On October 2, 2013, New York City held a primary runoff election for the office of Public Advocate. The runoff cost taxpayers at least \$13 million, effectively disenfranchised most military and absentee voters who live overseas, and contributed to a highly negative campaign. Turnout fell by more than two-thirds from the September 10<sup>th</sup> primary. Even the potential of such a runoff had negative consequences, as it led to the city's use of antiquated lever voting machines and great uncertainty about a potential runoff in the Democratic contest for mayor.

One reform alternative is simply abolishing runoff elections, but that has negative consequences as well. Low-plurality winners can be highly unrepresentative. For example, without a runoff in Boston last year, the "winner" would have earned only 18% of the vote. Requiring a higher threshold to win means encouraging candidates to reach out to more voters.

The best, most proven solution is to replace the use of delayed runoff elections with a single instant runoff. Doing so allows voters to participate fully by means of a single instant runoff ballot rather than have to return to the polls. There are good reasons that instant runoff voting has earned strong backing in New York, both currently and in the past. The many city backers of the proposal include both of the candidates in last fall's Public Advocate primary runoff, Citizens Union, the New York City Campaign Finance Board, Common Cause New York, Demos and AALDEF.

### **Replacing Delayed Runoffs with Instant Runoff Voting**

When using a two-round runoff election, voters vote for a first-choice candidate in the first election. If no candidate wins enough votes to win outright, then voters are asked to return for a second election where only the two candidates with the most votes appear on the ballot. Many voters do not return to vote. Those who do either vote again for their first-choice candidate or vote for their next choice among the runoff candidates.

Instant runoff voting (IRV, also called "ranked choice voting") accomplishes the same goal by simply asking voters to indicate both their first-choice and their second and later choices on the same ballot. If no candidate wins a majority outright based on first-choice choices, then the trailing candidates are defeated, and ballots count as votes for the highest ranked candidate who remains. This allows a city to get the benefits of runoff elections with a single "instant runoff" election.

## **The Two-Round Election Imposes Severe Election Administration Burdens Compared to IRV**

Because New York City's optical voting equipment could not be reprogrammed for a second election fast enough in 2013, it had to instead use 1960s era lever machines. This led to highly predictable troubles involving broken machines and frustrated voters. To avoid the use of lever machines, some argued for moving the primary election to June. However, putting that much time between the primary and primary runoff elections would exacerbate the already steep drop-off in voter turnout between rounds while lengthening both the lame duck period and the campaign season with added demands on the candidates to raise more money for campaign financing.

The optical-scan voting equipment used by New York City can be used for IRV elections where voters rank their first, second, and third choices or (with a minimal software upgrade) where voters may rank all candidates. Indeed, New York City's equipment vendor ran IRV elections last November in Minneapolis and Takoma Park (MD) using the same optical scanners currently used by New York City. With adoption by the legislature of IRV this year, it would have plenty of time to have an "end-to-end" system ready to use by the 2017 city elections.

## **The Two-Round Election Imposes High Costs on the City**

In New York City, the election administration costs of holding the runoff were at least \$13 million. New York City also provides public matching funds for campaigns that accept an expenditure cap, and so some of the campaign's costs for the second election were borne by the city. Although only a third of September primary voters participated in the runoff, those that did had to devote money and time to come back to vote, with most casting the exact same vote they did in September. Transitioning to IRV would save the city the costs of holding the runoff election as well as the additional public matching funds for campaigns. Consequently, New York City would see considerable savings from transitioning to IRV that could be invested into voter education efforts about the election in general and to help the transition to IRV.

## **Runoffs Encourages Divisive Campaigning, While Instant Runoff Promotes Inclusion**

With runoffs in place, voters indicate support for only one candidate. As a result, campaigns have little incentive in the first round to reach out to voters expected to favor opponents. That trend can exacerbate tensions stemming from traditional identity politics in diverse cities like New York City. For example, last year, many Asian American communities felt ignored in the mayoral primary. Voters could only indicate support for one candidate, and the other campaigns assumed that most would put that support behind Chinese American candidate John Liu. Consequently, campaigning there would not have significantly helped the other candidates. In fact, while Liu received only 7% citywide, he received a majority in heavily Asian American neighborhoods, including almost 80% in some Chinatown precincts. Under IRV, those voters – and all voters across the city – would have been courted in efforts to win their second and later ranked choices.

In the runoff election, the fact that only two candidates compete makes the election zero-sum, such that a candidate gains as much from attacking an opponent as from supporting their own candidacy. For example, the 2013 runoff campaign for Public Advocate quickly turned negative in a race between an African American candidate and a white candidate. With IRV, there never needs to be an election with only two candidates, and candidates will avoid alienating the bases of their opponents with negative campaigning, because in order to win they will need to be the second and later choices of some of those opponents.

## **Voters Handle Instant Runoff Ballots Well**

In election after election with IRV ballots, including in racially and ethnically diverse cities such as Oakland (CA) and San Francisco (CA), voters handle IRV ballots very well. In fact, voter error in those cities has been far higher in non-IRV elections, such as the June 2012 U.S. Senate primary. In Oakland's first mayoral election in 2010, the winner finished with more votes than had been won in two decades, and 99.7% of ballots were valid. Of Oakland's 18 offices elected with IRV since 2010, 16 were won with more votes than the winner in the preceding non-IRV election. In 2013, the Minneapolis mayoral election had a very long ballot (due to ballot access being earned with just \$20), resulting in 35 candidates, but voters handled the ballot well. Nearly nine in ten ranked at least two candidates and more than three in four used all three of their available rankings. More than 99.9% ballots could be counted in the first round as a valid choice for a mayoral candidate.

## **IRV Has Substantial Support in New York**

In 2010, the New York State Senate passed Senator Liz Krueger's bill that would have implemented a three-year trial period for cities to use IRV to elect their citywide officers. The same year, the New York City Charter Commission gave serious consideration to ranked choice voting for citywide primaries; a commission staff report recommended that it go on the November 2010 ballot, concluding it would avoid the drop in turnout for runoff elections, allow political participation without fear of "spoilers," and save the city the costs of an additional election. Among its current backers are civic groups like Citizens Union, Common Cause New York, the New York City Campaign Finance Board, AALDEF, and numerous city elected officials.

## **IRV is Legal**

When opponents have challenged IRV in courts, they have decisively lost. IRV is a one person, one vote system with no barriers under New York law, the New York Constitution, or the U.S. Constitution. Recent rulings affirming its legality include unanimous decisions by the Minnesota Supreme Court (2009) and the Ninth Circuit Court of Appeals (2011).

## **For More Information**

FairVote has a number of documents that are on its website ([FairVote.org](http://FairVote.org)) or can be made available upon request, including:

- A November 2013 letter from Minneapolis councilmember Elizabeth Glidden to Christine Quinn on the value of IRV in Minneapolis
- Sample IRV ballots
- A 2008 memo on the value of IRV in New York City
- Rob Richie's testimony in favor of IRV bills in New York in 2009 and 2013
- FairVote memo in support IRV for military and overseas voters in New York City
- A report on the effect of IRV on racial minorities done jointly by FairVote and the New America Foundation
- Responses to many questions people may have about IRV in theory and in practice.
- Detailed analysis of IRV elections in practice in cities like Oakland (CA), San Francisco (CA) and Minneapolis (MN)