

## **Instant Runoff Voting for Montgomery County Vacancy Elections** *Preserving Majority Rule, While Savings Hundreds of Thousands of Dollars*

FairVote and Common Cause Maryland, partnering with the New America Foundation, strongly urge the Montgomery County Council to pass a council ordinance to enact Instant Runoff Voting (IRV) for vacancy elections in Montgomery County. In addition, the League of Women Voters of Montgomery County spent over a year studying election methods, and their board recently recommended this reform for Montgomery County's vacancy elections.

**Saves Money:** In the 2008 District 4 County Council vacancy election, Montgomery County was forced to pay \$1.3 million for two elections, despite the fact that the winner was essentially determined in the primary election (Donald Praisner defeated Mark Fennel in the general election with 66% of the vote, after defeating Nancy Navarro by a much slimmer margin, 44% to 39%, in the primary). IRV would cut election costs in half, to \$650,000, as only one election would be necessary.

**Greater Participation:** In addition to the problem of unnecessary costs, turnout in 2008 dropped between the primary and the general election from the already low 11.47% to a single-digit 8.56%. This is likely because many voters knew the outcome had already been determined in the primary and potentially because some voters simply didn't want to return for another election. Since there would only be a single blanket election under IRV, more voters would participate in the decisive election than under the current system.

**How It Works:** There are two types of IRV, both of which involve voters ranking candidates in order of preference. We believe the method used in Takoma Park, MD is a better policy option. In this system, if a candidate receives more than 50% of the votes, he or she wins. If no candidate receives the majority of the votes, the candidate with the fewest votes is eliminated and the votes of their supporters are counted towards their second choices. If at that point a candidate has at least 50% of the votes, they win. If not, the process of eliminating the weakest candidates continues until a candidate receives over 50% of the vote.

The other "top two" method of IRV is the one used in North Carolina. In this system, only the top two vote getters advance to the next "runoff" round, and those who voted for another candidates have their votes counted for whichever of the runoff candidates they ranked higher. This system is similar to a traditional multi-step runoff, although taking place in one trip to the polls.

**IRV has been adopted in numerous jurisdictions around the world, including (but not limited to):**

North Carolina (certain vacancy and primary elections), Memphis (TN), Aspen (CO), Burlington (VT), Minneapolis (MN), San Francisco (CA), Oakland (CA), London (UK), Ireland (presidential elections), Australia, and more. IRV ballots are also used for military and overseas voters in South Carolina, Louisiana and Arkansas. In 2008, both Colorado and North Carolina passed laws promoting and facilitating use of instant runoff voting in their localities.

Instant runoff voting is endorsed by Robert's Rules of Order and used by the American Political Science Association. In the 2008 presidential race, instant runoff voting had the support of nearly every major party and third party candidate, including Barack Obama, John McCain, Bob Barr, Ralph Nader, Cynthia McKinney, and more.

Other benefits of IRV include:

- reduced negative campaigning
- allows voters to cast a conscience vote
- ensures a majority winner
- enriched public debate
- avoids "spoiler" effect
- generally preferred by voters

Instant runoff voting often can require an upgrade in voting equipment software, but Maryland is in the process of purchasing new optical scan voting equipment right now. There still is time to make sure that equipment comes ready to implement instant runoff voting within two or three years. In the short-term, there are ways to tally instant runoff voting ballots using the method done in 2007 in Cary, North Carolina that involved both use of optical scan machines and hand-tallies.

In this packet you will find:

- Text of the proposed legislation
- List of IRV Endorsers
- Common Myths about Instant Runoff Voting Factsheet
- New York Times Article: "New Runoff System in San Francisco Has the Rival Candidates Cooperating"
- USA Today Editorial: "Spoiler-free elections"
- Gazette Article: "Instant runoff voting unveiled in Ward 5 election"

If you have any further questions, please do not hesitate to contact Rob Richie (FairVote) at [rr@fairvote.org](mailto:rr@fairvote.org) and Ryan O'Donnell (Common Cause Maryland) at [rodonnell@commoncause.org](mailto:rodonnell@commoncause.org). More information on instant runoff voting is available at [www.fairvote.org/irv](http://www.fairvote.org/irv) and [www.instantrunoff.com](http://www.instantrunoff.com).

## Text of the Proposed Legislation

**AN ACT to:**

- (1) authorize the County Council to provide for filling a vacancy on the County Council by special election using an instant runoff voting method;
- (2) defining instant runoff voting method; and
- (3) generally amending the County law to establish a method of filling vacancies by instant runoff voting.

**By adding**

**Montgomery County Code  
Article 5. Instant Runoff Voting  
Section 1-501**

*The County Council for Montgomery County, Maryland approves the following Act:*

Sec. 1. Article 5, Section 1-501 is added as follows:

### Article 5. Instant Runoff Voting.

1-501.

- (a) — Definitions. In this Section, the following words have the meanings indicated:

First-choice ranking means a voter's primary choice of candidate.

Instant runoff voting means a method of voting where:

- (1) candidates of all parties run for office in a blanket election;
  - (2) voters rank candidates in order of preference;
  - (3) ballots are tabulated, with any candidate receiving a majority of first-choice rankings declared the winner; and
  - (4) if no candidate has a majority, the candidate with the fewest first-choice rankings is eliminated;
    - (i) the eliminated candidate's ballots are then counted for the next choice indicated on each ballot; and
    - (ii) the process of elimination and reapportionment of votes repeats until only two candidates remain, with the candidate then having the greatest number of votes being elected.
- (b) The County Council may provide for filling a vacancy by special election using an instant runoff voting method.

**Sec. 2. Effective Date.**

This Act takes effect on July 1, 2009.

## Instant Runoff Voting Endorsers

### **Federal and Statewide Elected Officials**

President Barack Obama (IL)  
U.S. Sen. John McCain (AZ)  
U.S. Sen. Bernie Sanders (VT)  
Gov. Howard Dean (VT)  
U.S. Rep. John Porter (IL)  
U.S. Rep. Keith Ellison (MN)  
U.S. Rep. Barbara Lee (CA)  
U.S. Rep. Dennis Kucinich (OH)  
U.S. Rep. Jesse Jackson, Jr. (IL)  
U.S. Rep. Peter Welch (VT)  
U.S. Rep. Tom Allen (ME)  
U.S. Rep. Barney Frank (MA)  
U.S. Rep. Rob Andrews (NJ)  
Hon. Sharon Priest, Former AR Secretary of State  
Hon. Deborah Bowen, Secretary of State (CA)  
Hon. Deborah Markowitz, Secretary of State (VT)  
Hon. Mark Shurtleff, Attorney General (UT)  
Arne Carlson, Former Governor (MN)

### **State and National Organizations**

#### *League of Women Voters Chapters*

Arizona  
California  
Florida  
Massachusetts  
Minnesota  
North Carolina  
South Carolina  
Vermont  
Washington

#### *Democratic Party Organizations*

Alameda County, CA  
Colorado  
California  
Maine  
Massachusetts  
Minneapolis, MN  
Progressive Democrats of America  
Progressive Democrats of Los Angeles  
San Francisco, CA

#### *Republican Party Organizations*

Alaska

#### *Other Groups:*

ACLU of Southern California  
AFL-CIO of New Mexico  
Asian Pacific American Legal Center (APALC)

### Common Cause

California  
Vermont  
Grange-Vermont  
Green Party  
Libertarian Party  
National Latino Congreso  
Sierra Club  
Southwest Voter Registration Education Project  
Strategic Concepts in Organizing and Policy  
Education (SCOPE - Los Angeles)  
U.S. PIRG  
William C. Velasquez Institute

### Newspapers

USA Today  
Seattle Times (WA)  
Seattle Post-Intelligencer (WA)  
Minneapolis Star Tribune (MN)  
Oakland Tribune (CA)  
Sacramento Bee (CA)  
News Tribune (WA)  
Trenton Times (NJ)  
San Jose Mercury News (CA)  
Detroit Free Press (MI)  
The Harvard Crimson (MA)  
The Nation  
Bangor Daily News (ME)  
Bradenton Herald (FL)  
Corvallis Gazette-Times (OR)  
The News Press (FL)  
The Pelican Press (FL)  
St. Petersburg Times (FL)  
Vancouver Columbian (WA)  
Athens Banner-Herald (GA)  
Michigan Daily (MI)  
Pasadena Weekly (CA)  
Peninsula Gateway (WA)  
Minnesota Daily (MN)  
Asheville Citizen-Times (NC)  
Wilmington Star News (NC)  
The Ledger (FL)  
Daily Californian (CA)  
Palm Beach Post (FL)  
Juneau Empire (AK)  
Brown Daily Herald (RI)  
California Aggie (CA)  
Ming Pao Daily (MN)

## **Myths About Instant Runoff Voting**

**If candidates with the fewest votes are dropped first, does that mean the supporters of the weakest candidates get extra clout?**

No. The supporters of the most popular candidates determine which candidates advance and which candidates are eliminated. Once the weakest candidates are eliminated, every voter has a single equal vote that can count for either of the final contenders... meaning everyone has an equal voice in deciding the election.

**Does a first choice vote count twice as much as a second choice?**

No. IRV doesn't work like that at all. Your ballot only counts for one candidate in any round of counting. Your ballot will count only for your 1<sup>st</sup> choice as long as that candidate remains in the race. But if that candidate gets eliminated, your vote will count for your 2<sup>nd</sup> choice, and if your second choice gets eliminated, your ballot will count for your third choice, etc. Or think of it this way. If you go to an ice cream store and ask for butter pecan, but find out that they are out of it and have to settle for chocolate as your second choice, you still only end up with one ice cream cone.

**Can ranking a second or third choice hurt my favorite candidate?**

No. Your vote counts exclusively for your first choice as long as that candidate has any chance of winning. Your second, third choice, etc. are your back-up runoff choices. Your ballot only counts for your 2<sup>nd</sup> choice if your 1<sup>st</sup> choice does not make it into the runoff.

**Does IRV give some voters more votes than others? Does it violate "one person -- one vote" principle?**

No. Every voter gets an equal vote. In every round of counting, every ballot counts as one vote for the highest-ranked candidate still in the running. If your candidate is still viable, your vote will count for your favorite candidate in the runoff round. If your candidate has been eliminated, just as in a traditional runoff election, you need to settle for one of the remaining candidates. Your vote automatically counts for whichever continuing candidate you prefer. The mistaken impression that some voters get more votes than others was the basis for a legal challenge to IRV in Ann Arbor, Michigan. The court ruled that IRV fully complied with the principle of "one person, one vote," giving equal weight to each voter. The judge wrote in his decision:

"Under the [IRV system], however, no one person or voter has more than one effective vote for one office. No voter's vote can be counted more than once for the same candidate. In the final analysis, no voter is given greater weight in his or her vote over the vote of another voter, although to understand this does require a conceptual understanding of how the effect of a "[IRV] System" is like that of a run-off election. The form of majority preferential voting employed in the City of Ann Arbor's election of its Mayor does not violate the one-man, one-vote mandate nor does it deprive anyone of equal protection rights under the Michigan or United States Constitutions."

### **Is the IRV winner a true majority winner?**

Since IRV uses the exact same logic as regular runoff election, you might as well ask whether a candidate who wins a runoff election is a real majority winner. Some voters may sit out a separate runoff election, and some voters may not rank either of the finalists on an instant runoff ballot. Just as in a traditional separate runoff, one candidate ends up with a majority of votes among those voters who chose to express their preference between the finalists. Robert's Rules of Order and the Michigan court decision that upheld the constitutionality of IRV are clear that IRV is a system to determine a majority winner in a single election. The judge in that case wrote in his decision:

"Each voter has the same right at the time he casts his or her ballot. Each voter has his or her ballot counted once in any count that determines whether one candidate has a majority of the votes."

### **I've heard that a candidate who comes in second can win. Is this true?**

Some people who don't understand IRV occasionally jump to this mistaken understanding. Just like a regular runoff election, the winner of an IRV election is the candidate preferred by a majority (more than half) of the voters who express their preference. In a traditional separate runoff election (and under IRV) it is certainly possible that a candidate who was not ahead in the first round, might turn out to be the most popular choice after the field of candidates is reduced to two. A candidate who was in first place in the first round of a traditional runoff (let's say with 35% of the vote), might not be the majority choice. In fact that candidate could be the least preferred choice by 65% of the voters. What matters with IRV (and traditional runoff elections), is which candidate is preferred most among all voters once the field is reduced to two finalists, and the candidate in first place at the end is always the winner.

# The New York Times

ON THE WEB

## New Runoff System in San Francisco Has the Rival Candidates Cooperating

September 30, 2004 Thursday  
By DEAN E. MURPHY

Eugene C. Wong is running for an office that typically does not draw the national spotlight. Yet Mr. Wong and the 64 others seeking seats on the County Board of Supervisors here are being closely watched by advocates for election reform around the country.

In Mr. Wong's case, the reason was evident on Wednesday, at one of his first big fund-raisers in the third district, an ethnically mixed area that straddles North Beach and Chinatown. The evening was unconventional, to say the least, with Mr. Wong sharing top billing with two principal rivals in the race, Sal Busalacchi and Brian Murphy O'Flynn.

"We are going to have more joint fund-raisers," Mr. Wong said. "I am not opposed to saying that if I don't win, then I hope one of these other guys wins."

The cooperation is in response to a new election system, instant-runoff voting. The system, which voters approved in 2002 and is having its first run, is viewed by critics of winner-take-all elections as the start of a long-overdue overhaul of the way Americans choose elected officials.

Under this system, voters can choose three candidates for each office, ranking them in order of preference. If no candidate wins more than 50 percent of the first-choice votes, the lowest-placing finishers are eliminated, and the second and, if necessary, third choices on those ballots are counted until someone garners a majority.

The system removes the need for a separate runoff election, saving money and, if the recent past is a guide, increasing the number of voters who have a say in choosing the winner. Under the old system, turnout usually dropped significantly in runoffs.

"People are hungry for change," said Lani Guinier, a professor of law at Harvard who has written about alternative election systems and is among those

closely watching the San Francisco example.

"There is a simmering dissatisfaction with not only what happened in Florida in 2000," Professor Guinier said, "but with some of the responses that the election officials, Congress and others have implemented, and a sense that if the voters and citizens want to participate in our democracy, the voters and citizens have to take the initiative."

Critics of instant runoffs fear it is too difficult to pull off, for voters and election officials, and that it could reduce turnout among some minorities, especially those who speak English poorly and are new to voting. Some critics have also questioned whether it might violate the principle of "one man, one vote" that the Supreme Court established in 1964.

Even some supporters of the system acknowledge that its logistics can be daunting. It took San Francisco more than two years to use the system, a process that included making changes to its optical-scan voting machines that required the approval of the secretary of state. The changes were too late for the elections last year for mayor and district attorney.

Because of the complicated counting, experts expect that just first-choice results will be available on election night, leading some critics to complain that the "instant" is being taken out of instant-runoff voting.

"It will be a negative," said Lillian Sing, a former judge who is among six candidates challenging Supervisor Jake McGoldrick in District 1, in the Richmond area. "We are just beginning to get language minorities to vote more, and now all of a sudden we have this complicated process. It is a distraction to talk about how people should vote."

San Francisco is the first major city in the country to try instant-runoff voting since the 1970's, when Ann Arbor, Mich., abandoned it after one election.

Variations of the system exist in a few places, including Cambridge, Mass., where the City Council and school board are elected by proportional representation, which includes ranked-choice voting.

Until they were abolished by Mayor Michael R. Bloomberg, the community school boards in New York allowed voters to rank candidates. Student governments at dozens of colleges and universities also use versions of the system.

But San Francisco is the sole major jurisdiction to incorporate what advocates of instant-runoff voting consider three essential components for its success, ranked-choice ballots, a single election and the requirement that each winner receive a majority of the votes cast.

"San Francisco is being seen as a very good test," said Robert Richie, executive director of the Center for Voting and Democracy, an organization in Takoma Park, Md., that advocates changes in election laws.

The center, founded by a former independent presidential candidate, John B. Anderson, was a leading force behind the 2002 ballot measure here.

Mr. Richie and other supporters of a broader push for instant runoffs see past San Francisco to places like Florida. If Florida had the system for the 2000 election, proponents say, there is little doubt that Al Gore would have won the state instead of George W. Bush. Most of the people who voted for Ralph Nader, the logic goes, would have listed a Democrat as their second choice.

"I am not going to hide the fact that if you look at it, there is analysis to show it could help the Democrats," said Thomas D. Bull, a Democratic state representative in Maine who sponsored a measure there in the spring to instruct the secretary of state to study instant runoffs.

A tally kept by the Center for Voting and Democracy shows that Maine is among 22 states that have explored the idea in recent years.

"There are also examples of where it might have helped the Republicans," Mr. Bull added. "If you look at the Libertarians and along that line, there are

conservative third-party candidates siphoning off Republican votes."

Professor Guinier said the voting system favored outsiders, no matter their politics or party registration. That is also the belief of Jim Stearns, a Democratic consultant here who opposed the ballot measure because, he said, he feared that instant runoffs would hurt so-called progressive politicians who have become the insiders on the officially nonpartisan Board of Supervisors.

"The irony of a lot of progressive reforms is that the system becomes legally more complicated and electorally more complicated, meaning those candidates who can afford high-quality help are going to be benefited," said Mr. Stearns, who is now running the re-election campaigns of three incumbent supervisors.

An early effect has been to introduce a new civility among the candidates, something many San Franciscans have wholeheartedly embraced. Because the winner in each district might be determined by voters' second and third choices, candidates have quickly learned that it is best to be on friendly terms so as not to alienate their opponents' supporters.

"Even if you come in second among the first-choice votes, you still have a shot at winning, so long as you can reach out to be the No. 2 choice to the rest of the people," said Mr. Wong, an immigration lawyer.

In District 5, Supervisor Matt Gonzalez, a big backer of instant runoffs in 2002, is not seeking re-election, creating the biggest free-for-all of the season. Many of the 22 candidates vying for his post participate in a so-called Candidates Collaborative, meeting publicly every few weeks to discuss district problems. The setting is decidedly congenial.

One candidate, Michael O'Connor, a nightclub owner, said the consensus among most candidates was that opting out of the collaborative would be political suicide in the new get-along environment. Last month, Mr. O'Connor also held a joint fundraiser with a rival, Robert Haaland.

"The way I see how it works," Mr. O'Connor said, "win or lose, you may as well get along with people."

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—Allen H. Neuharth, Founder, Sept. 15, 1982

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## Spoiler-free elections

Life isn't very happy these days for the "spoilers" from November's elections.

As reported by USA TODAY last week, Democrats in Congress are shunning their old consumer-advocate comrade in arms, Ralph Nader, because he siphoned off enough voters to cost Al Gore the election. If just a fraction of Nader backers in Florida and New Hampshire had gone for Gore, he would have won both states, and a majority of the Electoral College.

While not widely reported, GOP renegade Patrick Buchanan played a similar role. Bush lost New Mexico, Iowa, Wisconsin and Oregon by margins so small that Buchanan's votes could have given him victory. If Bush hadn't eked out a court-ordered edge in Florida, Republicans would be denouncing Buchanan just as Democrats do Nader.

Clearly, both parties have a stake in changing the system — ideally without making it harder for third-party and independent candidates to get on the ballot.

Some states, notably in the South, already require runoffs between the top two candidates if no one gets 50% of the vote in a primary or election for state office. Many other countries elect presidents that way. Thus whoever wins can legitimately claim to have majority support. But second campaigns are

expensive and would result in even more special-interest money tainting the process.

Two California cities, Oakland and San Leandro, just adopted a better way for local elections, called "instant runoff voting." Under it, voters rank the candidates 1, 2, 3 in order of preference. Voters thus could support both a Nader and a Gore, both a Buchanan and a Bush, or any other combination.

If a candidate wins a majority of first-preference votes, the count is over and that candidate wins. If not, the last-place finisher is eliminated. Ballots cast for that candidate are counted for voters' next choice, until someone has a clear majority. Australia and Ireland have used the system for decades.

In Alaska, instant runoff is to be on the ballot for voter approval in 2002. Similar efforts are underway in New Mexico, Vermont, Washington and elsewhere in California.

Changing presidential elections on a nationwide basis would require a constitutional amendment, though states could adopt such changes on their own.

Third-party candidates ought to be able to run without being labeled spoilers, and officeholders ought to be able to say they have the support of a clear majority of the public. Getting there, though, will require both major parties' support for change.



*"The Way Democracy Will Be"*

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## **Instant runoff voting unveiled in Ward 5 election**

*New candidate ranking system 'easy or very easy,' residents at polls say*

**By Agnes Jasinski**

Published February 7th 2007 in The Gazette

While special elections are rare in Takoma Park, there was something even more unusual in how residents elected Reuben Snipper, their new Ward 5 councilman.

This was the first time the city and the state used instant runoff voting (IRV), allowing voters to rank their candidates in order of choice.

The reasoning behind the system is electing candidates who are “acceptable to a majority,” said Ryan Griffin, director of the IRV American program through Takoma Park-based advocacy group FairVote.

“Say you have a swing district, with our two parties ... you might have one on either side who has a strong support among their base,” Griffin said. “The question IRV is going to determine is which one will be most acceptable to the rest of the people.”

Of the other two candidates, Eric Hensal received 72 votes. Alexandra Quere Barrionuevo received 23. Snipper needed 102 out of 203 voters to win a majority; he received 107.

The method was adopted in the city’s 2006 election after IRV received the support of 84 percent of Takoma Park voters in a November 2005 advisory referendum. The idea of IRV was brought before the City Council by County Councilman Marc Elrich (D-At large), the city’s former Ward 5 councilman who was elected to the Montgomery County Council in November. Last week’s election filled Elrich’s spot.

“It was a fun introduction into instant runoff voting because this election did have three candidates,” said Rob Richie, executive director of FairVote. “It affected how people thought about the race and the meaning of the election.”

The city prepared voters for the change with two separate mailings, one to every Ward 5 household and another a few weeks before the election to every registered voter in the ward detailing the process with a sample ballot. A video was made available on the city’s Web site and was shown on Snapshots, the city’s cable TV program.

The special election cost the city about \$3,500, said City Clerk Jessie Carpenter. That included the mailings, cost for judges and the educational video.

Carpenter said the city will look to streamline the process for the election in November. Following the manual count last week, Bethesda-based election services company TrueVote Inc., came in to demonstrate a computer scan method of counting ballots. The scan came up with the same number of votes as the election judges, even recognizing an invalid ballot.

While Carpenter said she is not ready to recommend a scanning system to the City Council, she said finding a vendor to do a computerized count would take some of the stress off election judges and make counting votes less time-consuming. Another option would be hiring additional counters to come in after results are in.

“I’ll be looking for ways to make the counts go a little faster,” Carpenter said. “I’m anxious to see what other systems are out there.”

According to a poll of 79 voters conducted by FairVote, 88 percent of voters in the special election found the method easy or very easy. More than 80 percent knew coming into the election that they would be asked to rank their choices, according to the informal survey.

Snipper said the new method contributed to a more positive campaign. Since second choice votes could be of value if no candidate won a majority, it made the candidates more cautious about bad-mouthing their opponents, he said.

“If you’re talking with a resident and they make it clear, ‘I’m not voting for you,’ or it’s obvious from their views that they’re not going to vote for you, you tend not to want to go negative ... most people react badly to that,” he said. “In that case, you’re essentially trying to sell yourself as a second-choice candidate.”

Griffin said the method gives candidates incentive to reach out to their opponents’ supporters. According to the FairVote poll, 56 percent of respondents felt there was less negative campaigning in the Ward 5 special election than in previous contests.

Hensal, who finished with 72 votes, said he was curious to look at the paper ballots to see where Barrionuevo’s votes would have gone had it come down to counting second-choice votes. Carpenter said she would include that information as part of a report describing the computer scan process later this week, but because those votes were tallied by the scans and not the city’s election judges, the information will be unofficial.

IRV has been used in local elections in San Francisco, Burlington, Vt., Minneapolis and Oakland, Calif. Several cities in North Carolina are looking to phase in IRV to local elections within the next few years.

What would have happened if ...

If Reuben Snipper hadn’t received a majority:

The candidate with the fewest first choice votes, Alexandra Quere Barrionuevo, would have had her 23 second-choice votes redistributed to the remaining two candidates.

If second-place candidate Eric Hensal received enough second-choice votes in that second round to win a majority, Hensal would have won the seat. More rounds are typically needed with more candidates to determine a majority. Voters can rank as few or as many candidates as they choose.



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FairVote is a non-partisan electoral reform organization seeking fair elections with meaningful choices. Our vision of “the way democracy will be” includes an equally protected right to vote, instant runoff voting for executive elections and proportional voting for legislative elections.

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