

Big Money Politics in the Bay Area: Why Reform Measures are at Risk

By Rob Richie

Take a deep breath and imagine you were a wealthy corporate interest in the Bay Area and among the 1% of the general public that expects influence in the political process far outweighing your power in votes alone. Going through the thought process of how you would seek to structure city elections is quite revealing in light of current proposals to “reform” city elections in San Francisco and Oakland.

Representing so few votes (and accepting, perhaps with regret, that our nation no longer limits suffrage to wealthy, propertied white men), you would turn to strategies to defeat candidates who challenge your interests with the one thing where your power is supreme: money.

In order to make your financial advantage as important as possible, here’s a combination of changes you logically would pursue:

- First, you would look at how to reduce how money opponents you have. You have lots of cash and can spend it. What can you do to make it harder for candidates you oppose to have the financial means to respond? San Francisco and Oakland today have public financing laws that increase the power of small contributions to candidates. If you could end or at least weaken these programs, your financial edge would be more valuable -- all the more so now that the *Citizens United* case has made it easier to spend freely and more covertly.
- Second, you would make it more important to have money. Two obvious ways to achieve that goal would be to force candidates to contest more elections and to have the second election be narrowed to only two candidates. Right now, San Francisco and Oakland use ranked choice voting (RCV, which is also called “instant runoff voting”) to elect their leaders in one November election when the most people vote.

You’d want to get rid of RCV and have two rounds of voting. Running two campaigns increases costs, especially if you force candidates to run in elections where they are responsible for generating turnout. By requiring a one-on-one runoff in contested races, your campaign cash achieves its greatest power. Runoffs present a zero-sum choice, and you can spend your money freely to attack the candidate you oppose. If your attack ads drive down support for the candidate you oppose, it necessarily helps your side.

Back when San Francisco had runoff elections, the San Francisco Ethics Commission indeed found a huge uptick in so-called “independent” expenditures – a quadruple increase in such spending in runoffs in 2002, for example, mostly in the form of negative attack ads. But with RCV, voters typically have more than two choices. The trend with RCV has been for the major candidates to stay more positive, focusing on getting out their affirmative message to more voters – and candidates are smart to get out into the community, attend more debates and earn people’s respect through in-person contact.

When you are the candidate with more money, you don’t want a system that allows hardworking candidates to get an advantage. You don’t want a system that encourages candidates to build electoral coalitions. You want a polarizing, one-on-one choice where your money’s power can be unleashed.

- Third, you'd like the chance to knock out most candidates when fewer voters pay attention, fewer low-income people vote and fewer offices like president and governor are on the ballot to generate turnout. Instead of decisive elections always being in November, as is the case with RCV, you'd prefer to eliminate most candidates in low turnout primaries- -and, ideally, allow your favorite candidates to avoid those higher, more equitable electorates in November altogether.

Voila! The “Reform” Agenda of the Bay Area’s 1%

Given the clear logic of these goals, perhaps it shouldn't be surprising that this combination of changes – weakening public financing, getting rid of ranked choice voting and going to a two-round runoff system that makes low-turnout primaries far more important-- is *exactly* what major big business interests and their political allies want to do in San Francisco and Oakland.

For months business interests and their political allies like Willie Brown have been criticizing public financing of elections and blocking reforms designed to sustain it in San Francisco. As to ranked choice voting, the two members of the San Francisco Board of Supervisors closest to the Chamber of Commerce have tried to get a charter amendment on the ballot to replace RCV with a low-turnout primary in September to either elect candidates directly or have a two-candidate runoff in November in which the big money guns can be directed at less favored candidates. RCV opponents are now back with a proposal to make this change for the office that matters most to them, the mayor.

Meanwhile, across the Bay in Oakland, forces tied to sour-grapes mayoral loser Don Perata are seeking signatures for a November measure to replace RCV with a system where candidates could either be elected outright in June primaries with low turnout, distorted electorates or have five months of a one-on-one runoff in which big money and super PACS could target the candidate they most dislike. With this system in place in 1996-2008, more than 75% of Oakland elections were won in June – with turnout on average barely half of that year's November turnout. That explains in 2010 , Oakland mayor Jean Quan won more votes than any Oakland mayor in two decades.

The plan to make big money more powerful by changing San Francisco's electoral laws goes back at least three years. In June 2009, the *San Francisco Bay Guardian* reported on a key meeting of big business leaders in an article entitled “Will downtown go after IRV?” (IRV is another name for ranked choice voting.) Here are key excerpts:

Interesting meeting at the Chamber of Commerce office yesterday. In attendance, I'm told by a good source, were Chamber CEO Steve Falk, Senior Vice President Jim Lazarus, Nathan Nayman from the Committee on JOBS, Pamela Brewster, vice-president for government affairs at Charles Schwab, Wade Rose, vice president at Catholic Healthcare West, and some other downtown types. Among the topics: A campaign to repeal the city's Ranked-Choice Voting system.

Downtown has never liked RCV, also known as Instant Runoff Voting. ..[Lazarus] said the Chamber had polled this year on both district elections and IRV, and found (no surprise) that the public loves district elections, and that trying to return to a citywide system was a nonstarter. And while support for IRV was also strong, the voters, according to the Chamber poll, would be willing to consider direct runoffs between the top two finishers if the voting were all done by mail..... Lazarus told me he's not sure what the next steps would be, and whether the Chamber would push a Charter Amendment campaign to repeal IRV.

Allies of the Chamber then tried a federal lawsuit. In 2010, Ron Dudum – a perennial loser in San Francisco elections under any voting rule -- was the frontman for well-financed litigation seeking to end ranked choice voting. Bankrolled by the California Apartment Association (CAA), the plaintiffs were represented by Nielsen, Merksamer, Parrinello, Gross & Leoni, LLP, the well-known Republican political advocacy and law firm where San Francisco Board of Supervisor Sean Elsbernd – the most vocal opponent of RCV on the Board of Supervisors – once worked.

The CAA's statement discussing the case suggests that its motivations were blatantly political and clearly designed to eliminate RCV rather than the lawsuit's professed goal of allowing voters more than three rankings. Here is an excerpt from the nearly incomprehensible statement of CAA Legal Committee Chairman Dave Wasserman explaining why they were involved in the case:

So the issue across the state, and indeed the nation, is how ranked choice voting (RCV) can be utilized to essentially crowd the field so as to ensure that the most qualified, and even most popular, candidate is defeated. . . . In big elections, like a mayoral one, the progressive left will field a slew of people who will garner second and third choice votes. The statistical odds favor their ultimate victory as compared to the main vote getter . . . This means, with RCV, that we oftentimes cannot get behind a strong candidate, given the likelihood that a lesser candidate will take the election. As such, our political sway is greatly diminished under the RCV scheme.

Wasserman's suggestion that the "the statistical odds" favoring the side that fields more candidates is nonsense, of course – RCV favors the side that has more votes, not more candidates. What he really means is that when there are more than two serious candidates in the decisive election, it's harder for big money interests to boost their favored candidate, and, as a result, their "political sway is greatly diminished."

In other words, big money interests like the Chamber of Commerce and California Apartment Association get their "political sway" through targeting money. Runoff systems with only two choices help make that money powerful.

Lessons for City Elections from "Top Two" Races

For a more current example, consider this year's first use of the "Top Two" system in California. Approved by 53% of voters in a referendum backed by millionaire friends of former governor Arnold Schwarzenegger, this system institutionalizes one-on-one November elections for all state and congressional elections in the state. In the relatively large number of heavily Democratic districts, it's quite possible that two Democrats will advance. In the much fewer number of heavily Republican districts, two Republicans may advance. In these intraparty runoffs, with both candidates having the same "party brand" on the ballot, money will become critically important – just as it would be in nonpartisan runoffs in cities like San Francisco and Oakland.

Writing in *the Capitol Weekly* last December, Paul Mitchell points out how the great majority of intra-party races are going to be among Democrats – often with one candidate more supported by corporate interests than the other. Mitchell writes:

The new Top Two system is a structure that will impact Democrats much more than Republicans. Throughout the state there are a half-dozen Congressional districts that have a 4:1 Democratic super-majorities and another dozen that have a 2:1 Democratic registration advantage. There are zero Republican districts with a 2:1 advantage over Democrats. There isn't even a single county in California that reaches 50 percent

Republican. An excellent study by the nonpartisan Center for Governmental Studies found that nearly all of the intra-party battles would be on the Democratic side. For insight into how business interests see these Top Two races, the president of the California Farm Bureau Federation Paul Wenger wrote to his members in December 2011:

The Top Two Primary system was developed to moderate the extreme partisanship in these "safe" districts. Whether or not that actually happens is yet to be seen, but one thing is certain: We in agriculture can be instrumental in electing legislators who understand the regulatory burdens of doing business in California, and who want to make California a job-creating state.

There is no better time than now to put forward and elect candidates who want California to be a business-friendly state for farmers and ranchers. ... We need to take back our state from the special interests that have a stranglehold on Sacramento and Washington. These special interests have supported and elected candidates who have little regard for the entrepreneurial spirit that has made our state the fifth-largest food-and-fiber-producing economy in the world.

The majority of electoral districts in California have little or no agricultural production within their boundaries. If we are to have an impact on who gets elected in those districts, we need to get involved. That involvement means raising the necessary funds to support candidates who understand that "business" is not a four-letter word.

Wenger and the Farm Bureau have every right to want to back candidates they prefer. But as Wenger points out, agricultural interests aren't present in most districts. How they can gain influence is by spending money – and he understands how a Top Two system may well help wealthy interests "moderate" the "extreme" (e.g., insufficiently pro-corporate) legislators because of how moneyed interest can throw their weight behind the less "extreme" candidate.

Campaign spending in ranked choice voting elections

Let's contrast the power of money in a top two races with a race with RCV. Even Mark Farrell, one of the anti-RCV ringleaders on the Board of Supervisors and a former investment banker with downtown connections, concedes in an interview on his Board of Supervisors page that in San Francisco's 2010 elections, every winner worked particularly hard in getting out into the community. Here are three particularly good examples of how RCV has rewarded grassroots campaigning more than the usual big money, traditional politics – all with different personalities and dynamics, but all showing the value of a new kind of campaigning.

Jane Kim wins in San Francisco's District 6 in San Francisco: When RCV was first implemented in 2004, there was only one Asian American on the 11-member Board of Supervisors, and only one citywide office was held by an elected Asian American. Now there are three citywide Asian American officials, including mayor Ed Lee, and four Asian American members of the Board of Supervisors.

One of the new winners is Jane Kim, a civil rights attorney formerly with the Lawyers' Committee on Civil Rights. Running in 2010 in one of San Francisco's most progressive districts, she started off as the underdog against Debra Walker, who won more traditional District 6 endorsements. Here's an excerpt from Paul Hogarth's insightful *Beyond Chron* analysis [link to <http://www.beyondchron.org/news/index.php?itemid=8666>] of Kim's victory:

Just like Howard Dean's Fifty State Strategy helped Democrats win nationwide, Jane Kim was everywhere – and conceded no part of District 6. Debra Walker carried the North Mission and a few progressive pockets, but racking up margins in some core precincts is not enough when your opponent actively contests every neighborhood...

One of the keys to Jane Kim's success was that the campaign never conceded a single neighborhood -- forming a Fifty-Nine Precinct Strategy that met voters in every corner of District 6. Arguably, because she lacked the big progressive institutional endorsements, it was the only way she could win and outmaneuver Debra Walker.

Like Chris Daly, Jane Kim won the Tenderloin -- because she had a base of SRO tenants and immigrant families. It takes months of campaigning for a candidate to build trust in that neighborhood, and Kim's relationship with local community organizers made that possible. Walker campaigned in the Tenderloin, but Kim beat her there by 140 votes. Of course, Kim's campaign had a formidable "Chinese team" -- whose outreach to the District's Chinese voters allowed her to rack up huge margins in two SOMA precincts, as well as pad her Tenderloin numbers. But she also had a Filipino team that organized that community in SOMA, and Russian phone-bankers reached out to its senior population.

When I agreed to lead the Jane Kim campaign's volunteer "condo team" for SOMA, I assumed it was to make sure we did not get slaughtered there... An important lesson for progressives is not to fear those District 6 condo voters -- but to instead set aside your pre-conceived notions, and come to their neighborhood. A lot of them voted for Jane Kim, even if they knew she's a progressive -- because she was there... Campaigning in all 59 precincts is a lot of work. Executing a Fifty-Nine Precinct Strategy is a lot of work. Conceding no neighborhood is a lot of work. But anyone can do it.

Stephen Cassidy defeats incumbent Tony Santos in San Leandro: In 2010, incumbent mayor Tony Santos was favored against former school board member Stephen Cassidy and city councilwoman Joyce Starosciak. But Cassidy outworked the others in a multi-candidate race. Although Santos edged Cassidy in first choices, Cassidy did a better job earning the second and third choices of backers of defeated candidates, and ultimately won a majority when matched against Santos. Here's an excerpt from a thoughtful *San Leandro Talk* analysis [[LINK TO http://sanleandrotalk.voxpublica.org/2011/08/27/rcv-in-san-leandro-a-primer-to-the-nov-2010-mayoral-election/#comment-1094](http://sanleandrotalk.voxpublica.org/2011/08/27/rcv-in-san-leandro-a-primer-to-the-nov-2010-mayoral-election/#comment-1094)] of the campaign:

As the 2010 Mayoral race developed, none of the campaigns had a firm grasp on who the top contenders were and how RCV would play into the equation. The Santos campaign conducted an informal telephone poll at the end of the summer which showed Santos in the lead, with Starosciak a distant second. Though the poll was methodologically flawed, Santos took it as a sign that he would easily win and that Cassidy wasn't a threat of any kind. While he delighted in attacking Cassidy through a friendly blogger, he didn't feel compelled to put much effort into his campaign. He rarely walked, never flied, and his first mailer did not even arrive until several days after absentee voters had received their mail-in ballots (ideally, you want to have your mailer arrive at the same time as the ballots, so your name is fresh in the mind of those voters who like to vote right away).

It wasn't until mid-October that Santos' campaign realized that Cassidy posed a considerable threat: more and more people they encountered were openly supporting Cassidy, the city was blanketed with his lawn signs, and letters to the papers were overwhelmingly in Cassidy's favor. Santos' campaign quickly issued a mailer answering Cassidy's charges against him and put forth robo-calls from, among others, Senator Ellen Corbett, urging voters to vote for him. This helped him enormously with poll-day voters, but it was too late to impact those who had already mailed their ballots....

Of the three campaigns, the only one that seemed to take RCV into account was

Cassidy's. As he and his supporters walked and called voters, they specifically asked those who expressed support for one of the other candidates, to mark Cassidy as their second choice. Neither of the other two campaigns seems to have done this. Indeed, Santos' campaign showed contempt for the whole RCV process by telling supporters to not mark second or third choices.

Jean Quan defeats former senate majority leader Don Perata in Oakland: Although RCV election after RCV election shows the value of getting out into the community, no election shows how RCV limits the effectiveness of strategies based on outspending opponents more than Jean Quan's election for mayor of Oakland in 2010. Former state senate majority leader Don Perata had millions of dollars spent on his behalf, either directly or by associated groups, and fit the recent profile of Oakland mayors: older, well-known politicians such as Jerry Brown and Ron Dellums.

But Quan and fellow city councilor Rebecca Kaplan were far more active as candidates, appearing before far more community groups and participating in far more debates. Polls showed that Perata was leading, but could not "close the deal" with Oakland voters, repeatedly falling short of 50% when matched against a top opponent. The election showed he never gained support from the majority. *Beyond Chron's* Randy Shaw told [LINK to

<http://www.beyondchron.org/news/index.php?itemid=8655>]the story in the days after the election:

Oakland is no longer the low-turnout, the most-money-wins elections type of city many think of it as. Oakland showed on November 2 that it can resist the expensive campaigns of the next new thing, which few cities across the nation can say. It took extraordinary political sophistication for Oakland voters to pull off the massive ranked choice voting switch that moved 75% of Kaplan's votes (15, 426) to Quan. From a political junkies perspective, it is awe-inspiring.

I do not know Jean Quan well, and recognized that even many progressives who supported her are waiting to see that she has what it takes to provide the strong leadership Oakland needs. And after my bad mistake in believing Ron Dellums would be a great mayor, I will make no predictions on Quan's success. But I will predict that Oakland government will be more collaborative and democratic than it may have ever been. And that Quan will do a far better job of harnessing the talents of city residents than her many predecessors, all of whom favored a more top-down approach.

While provisional ballots remain to be counted, Jean Quan and Oakland voters have already created a political earthquake likely to be felt across the state. I congratulate all those who kept pounding the pavement and phone lines in the face of Perata's millions of campaign dollars, and who never gave up in their belief that Oakland could choose a different course.

Quan sustained high support among voters for months after the election, topping 60% rates of approval in March 2011. Since then she's had a rockier time as mayor, but that's not the fault of a voting system that allowed old-fashioned shoe-leather to defeat big money.

Lessons from RCV Elections Outside the Bay Area

The biggest-spending candidates have repeatedly lost in RCV elections when opponents earned stronger grassroots support. The top-spending candidate not only lost in the most recent RCV elections for mayor in Oakland and San Leandro, but also in recent elections for mayor in Burlington (VT), Aspen (CO) and Portland (ME) and for county executive in Pierce County (WA). In several of these elections, the RCV winner was outspent by far more than two-to one. In each case, however, there were more positive, substantive campaigns in which candidates

tried to earn first choice support against several opponents while still being attractive as a second choice to backers of other candidates.

The Burlington election in 2009 was a model of clean, open debate. Formerly a skeptic of IRV, Democratic city councilor Bill Keogh told the local daily newspaper, "This campaign has been very, very good. [The four leading candidates have been] "as forthright as they can be with their views. This is the most respectful and informative campaign in Burlington in a long time." In November 2011, the *Portland Press Herald*, another former RCV skeptic, wrote a glowing editorial about how RCV had affected the city's recent mayoral race:

Under the ranked-choice system, candidates were forced to engage with each other and talk to each others' voters. The result was an interesting conversation about Portland and its future that would not have happened in a "turn-out-your-base" election. That debate helped clarify the job description for Portland's mayor, and it will make life easier for Brennan when he shows up for work. Portland residents can be confident that they have a political leader chosen by a majority vote who will represent all of them at home, in Augusta and in Washington. They can be confident that the process worked.

These pro-engagement, pro-participation outcomes may be good for democracy. They may be good for deliberation. But it's not good if you're part of a fearful 1% wanting to maximize your campaign cash. That's why San Francisco and Oakland may have to be ready to work hard to uphold ranked choice voting this November.