



League of Women Voters® of Portland

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May 30, 2022

To: Portland Charter Commission
From: League of Women Voters of Portland
Debbie Kaye, President
Debbie Aiona, Action Chair
Margaret Noel, Communications Chair
Audrey Zunkel-deCoursey, Board member
Janice Thompson, Action Committee Member
Peggy Bengry, LWV of Oregon Voter Education Chair

Re: **Section 3-102 Suggestions**

These remarks serve as supplemental material to our May 12, 2022, memo, elaborating on the final point recommending review of Section 3-102. We recommend review of this section to ensure that election administrators implementing ranked choice voting (RCV) have adequate guidance without constraining use of their experience and expertise in subsequent code development. Our review¹ revealed some opportunities for clarity and the need to address a conflict between one specific detail in the proposed Section 3-102 and proposed Section 2-206 provisions regarding elected official vacancies and how they are filled.

First, however, we wish to emphasize that the LWVPDX fully supports ranked choice voting and its use to elect Portland’s citywide officials, the Mayor and Auditor, as well as its use to elect Councilors from multi-winner districts. This firm support underscores our interest in offering suggestions to ensure that charter amendments facilitate successful implementation of ranked choice voting.

The specific detail of concern is the explicit reference to the 25%+1 election threshold in Section 3-102. This threshold does not adequately dovetail with Section 2-206 pertaining to vacancies and how they are filled. We believe that Section 3-102 must be edited to allow for appropriate ranked choice voting thresholds in elections to fill vacancies.

In the proposed Section 2-206, the exact timing of a vacancy that occurs one year or more before the end of that person’s term could mean that the replacement election occurs at a general election that is in the middle of the four-year term for that particular district. This is appropriate to ensure filling a vacancy in a timely manner. But it could mean that the replacement election for one vacancy or two vacancies within one Council district would require either a 50%+1 or a 33.3%+1 election threshold. As we read the proposed Section 3-102, the only permissible election threshold would be a 25%+1 election threshold. That is the correct threshold to use on a routine basis to elect three winners from each Council district. However, 25%+1 is not the correct election threshold to use when either one or two seats are being filled.

¹ Our review was informed by consultation with Fair Vote, a 30-year-old national group. Other resources that may be helpful to the Commission are More Equitable Democracy and the Ranked Choice Resource Center.

Obviously, the hope is that Council vacancies would be rare. Two vacancies, however, have occurred in the last 14 years, one due to resignation and another due to death. With a larger 12-member Council it seems possible that the number of vacancies could increase in the future. Therefore, it is prudent to resolve this conflict between proposed Sections 2-206 and 3-102 by modifying the proposed Section 3-102.

Other concerns about the proposed Section 3-102 are summarized below:

- Transferable is the correct spelling in “single transferable vote method.”
- The phrase “first rankings each candidate receives” should be consistently used. This is the phrase used in the second paragraph and it should be used in the third paragraph instead of “first-rank votes received by each candidate.”
- Replace “election code” in the fourth paragraph with either “ordinance” or “code” as recommended by the City Attorney. The phrase “election code” could be interpreted as requiring the Council to prepare an exhaustive accounting of every aspect of the election process. Using either “ordinance” or “code” better conveys the appropriate focus on codifying RCV implementation details, presumably with input from election administrators.
- Insert the following sentence after the reference to code adoption in the fourth paragraph: *Such ordinance may allow for a vote counting method that simultaneously eliminates multiple candidates with no chance of winning, as long as that elimination method would not alter the winner or the final vote counts.* This sentence provides flexibility to election administrators while outlining a needed safeguard regarding an inappropriate elimination outcome. This is a recommendation from Fair Vote based on their experience reviewing RCV provisions in many jurisdictions and their implementation.

To address these bullet points, the conflict with Section 2-206, and to provide clarity improvements, we suggest the following edits to the proposed Section 3-102. Thank you for your consideration of these suggestions and for all the hard work of the Charter Review Commission.

LWVPDX Suggestions for Changes to Proposed Section 3-102

City Councilors, the Mayor and the Auditor are elected in the general election, except as otherwise provided in this Charter, using ranked choice voting. Ranked choice voting means an election method in which voters rank candidates for an office or offices in order of voters’ preferences and ballots are counted in rounds.

The Mayor and the Auditor are elected at-large using a method of ranked choice voting known as instant runoff voting. Instant runoff voting elects the candidate who has the majority of the vote after the initial round of counting based on the number of first rankings each candidate receives. If no candidate receives a majority of the vote in the initial round, subsequent rounds are counted in which (i) candidates retain the number of votes counted for them in the first and any subsequent rounds that already occurred; and (ii) the candidates having the fewest votes are successively eliminated in rounds and their votes are counted as votes for the candidates who are ranked next on the ballots that had been counted for the eliminated candidates. The process of eliminating candidates and transferring their votes to the next-ranked candidate on ballots repeats until a candidate has a majority of the vote.

Councilors of each district are elected using a proportional method of ranked choice voting known as the single transferable vote. This method shall provide for the candidates to be elected on the basis of a threshold. The threshold shall be the lowest number of votes a candidate must receive such that no more candidates can win election than there are seats to be filled. In the initial round,

the number of first rankings received by each candidate is the candidate's vote count. Candidates whose vote counts are at least the threshold are declared elected. Votes that counted for elected candidates in excess of the threshold are called the surplus. If fewer candidates are elected on the initial round than there are seats available, surplus votes are proportionally added to the vote counts of the next-highest ranked candidates on the ballots that counted for elected candidates. If, after all surpluses have been counted in a round, no additional candidates have a vote count that is at least the threshold, the candidates with the lowest vote counts are successively eliminated in rounds and their votes are counted as votes for the candidates who are ranked next highest on the ballots that had been counted for the eliminated candidates. The process of transferring surpluses of elected candidates and eliminating candidates continues until all positions are elected.

The Council must adopt code by ordinance for the administration of ranked choice voting. Such ordinance may allow for a vote counting method that simultaneously eliminates multiple candidates with no chance of winning, as long as that elimination method would not alter the winner or the final vote counts.

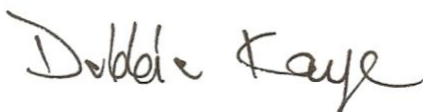
The City must conduct periodic voter education campaigns to familiarize voters with the ranked choice voting methods described above. The use of ranked choice voting must commence with the November 2024 election.

Finally in the first bullet below we have one suggestion regarding Section 2-206. In addition, since vacancy elections can occur due to a successful recall, we also reviewed Section 3-201's amendment on recall petitions for Councilors and have a word choice concern in that amendment as summarized in the second bullet.

- Ask the City Attorney to review Section 2-206 to ensure that the proposed vacancies section would apply to any vacancy or vacancies, due to the current language's focus on the singular.
- Request that the City Attorney replace the permissive "may" word choice with either "shall" or "must" in the following charter amendment pertaining to recalls in Section 3-201:
...a recall petition for a Councilor may only include signatures of registered voters from the district the Councilor represents and the recall petition may be voted on only by voters from within that district.)

Thank you for your careful attention to these important details of the charter reforms. Please let us know if you have clarifying questions about our recommendations. We are grateful for your service to our city.

Sincerely,



Debbie Kaye,
LWVPDX President

Debbie Aiona, LWVPDX Action Chair
Margaret Noel, LWVPDX Communications Chair
Audrey Zunkel-deCoursey, LWVPDX Board Member
Janice Thompson, LWVPDX Action Committee Member
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