

Californians for Electoral Reform  
c/o 2151 Oakland Rd. #133  
San Jose, CA 95131

April 20, 2010

Sunnyvale Chamber of Commerce  
260 S. Sunnyvale Ave., Ste. 4  
Sunnyvale, CA 94086-7665

Dear Sir or Madam:

This letter is in regards to Proposition 14 (Top-Two Primary) on the June ballot. The Silicon Valley Leadership Group (SVLG) is supporting this proposition and may contact the Sunnyvale Chamber of Commerce to elicit your support. As representatives of organizations that oppose this proposition we would like you to consider the arguments against its passage.

## Synopsis

Prop 14 is titled the “Top Two Candidates Open Primary Act.” It abolishes party primaries to establish one non-partisan “open primary” in which voters choose their favorite candidate regardless of party affiliation. In the general election in November, rather than each party having a primary-nominated candidate, only the two highest voted candidates from the open primary would appear on the ballot.

The stated goal of such a system is to elect more moderate candidates. The SVLG believes the current party primaries cause candidates with more extreme positions to be elected, thus resulting in the oft-cited partisan gridlock. They believe this situation would be mitigated by electing more moderate candidates, who would fare better in an open primary system due to “crossover” voting between parties.

Several organizations refute these claims and continue to advocate for truly effective reforms. Many of them are listed on the “Stop Top Two” web site ([www.stoptoptwo.org](http://www.stoptoptwo.org)). To the extent that the type of primary does contribute to polarization, it is due less to party primaries vs. open primary, and more to the two-round runoff system using winner-take-all voting. Under two-round runoff, the primary election attracts fewer voters who tend to hold more extreme views; while the general election typically has twice the turnout of the primary and tends to draw more moderate voters. Winner-take-all voting has too many unintended consequences, like vote splitting and lesser-of-two-evils votes, that contribute to undesirable and unpredictable election results.

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We urge the Chamber of Commerce to oppose Prop 14 for being ineffective, and for being a diversion away from real reforms and in conflict with existing reforms. As detailed below, Prop 14 might cause a slight increase in moderates being elected, but it comes at the cost of protecting incumbents, limiting voter choice, and negating other reforms.

*The costs are not worth the slim benefits.*

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A solution that fits the problem would be the adoption of Instant Runoff Voting (IRV). This is a system where voters rank all candidates in order of preference, then the most popular candidate is determined through a series of elimination rounds and transferred votes. IRV accomplishes in one round what now requires two rounds. Eliminating the primary for partisan offices and using just IRV in the general election would accomplish the desired moderating effect and it would eliminate unintended consequences. IRV also provides voters more choice, as opposed to the top-two system of reducing voter choice.

We encourage the Silicon Valley Leadership Group to show true leadership by studying potential solutions beyond the usual array of meek offerings such as term limits and open primaries. No matter how many times these systems are tried, they keep demonstrating little change in those issues about which voters complain.

## Terminology

Crossover voting – When a voter from one party votes for a candidate from different party.

Lesser-of-two-evils voting – Occurs in a winner-take-all system where there are multiple candidates but the voter has only one choice on the ballot. If one candidate is strongly feared, the voter chooses whoever is most likely to defeat the feared candidate, rather than another candidate whom the voter really supports.

Vote splitting – Occurs, for example, in a party primary consisting of two moderate candidates and one extreme candidate. The two moderates split the votes from the moderate voters, but the one extreme candidate gets all the extreme votes and wins the plurality to become the candidate in the general election.

Spoiler – Similar to splitting. Occurs when a minor party, independent, or write-in candidate is believed to have taken votes that would have gone to one major party candidate, thus causing that candidate to lose to the other major party candidate.

## Rationale

The SVLG is basing their position on a report from the Public Policy Institute of California (PPIC) authored by Eric McGhee, PPIC Research Fellow. This report can be downloaded at [www.ppic.org/main/publication.asp?i=904](http://www.ppic.org/main/publication.asp?i=904).

After reading this report one must wonder how the SVLG sees it as an endorsement of the open/top-two primary system electing more moderate candidates. Researching the history of similar systems used in Louisiana, Washington, and California (blanket primary, 1996-2000), the author concludes that Prop 14 might have only a modest effect. Here is the leading paragraph from the conclusion on page 12 of the report:

“In short, TTVG [top-two-vote-getter primary] would probably have a noticeable but modest effect on voting and representation in California. Crossover voting rates could be high, but perhaps in only a handful of races. Moderates might benefit, but only slightly more often than under the current system.”

SVLG’s strategy is that this slight advantage for moderates will accumulate over time. The PPIC report notes that a common characteristic of top-two systems is that incumbents tend to get reelected. So, over many years, the State Legislature and Congress would gradually become more moderate.

It is also pertinent that Mr. McGhee had an article published in SFGate.com on March 14 in which he expands on his opinion that this proposed reform would have “only a modest effect.” He asserts that various social, economic and political issues are also significant precursors to extreme partisanship.

## Problems

The underlying premise for an open/top-two primary to elect more moderate candidates is the belief that crossover voting will allow moderate voters to choose a moderate candidate. DTS (decline to state) voters already enjoy this freedom. But, as the PPIC report cited, most DTS voters in the current system do not opt to vote in a party primary, choosing a non-partisan ballot instead. So, the underlying assumptions are questionable:

- Will DTS voters now participate in the top-two candidate races?
- Will sufficient numbers of moderate Democrats or Republicans really cross over to vote for the other party’s moderate candidate?

These questionable scenarios substantiate the PPIC report’s conclusion of only a modest gain in electing moderate candidates.

Another problem that the open/top-two primary would encounter is the inadequacy of winner-take-all voting when there are many candidates on the ballot. In an open primary, the voter would see a ballot that contains all candidates for a given office – all the candidates from the six ballot qualified parties plus

write-in candidates. But the voter gets to mark only one X in the voting booth. This can cause several problems:

- A long candidate list will promote vote splitting and lesser-of-two-evils voting. This contributes to the undesirable/unpredictable election results mentioned above.
- Candidates will be more desperate for your vote since they have to compete against more candidates. This tends to increase campaign spending, and increases the use of desperate measures such as negative campaigning.
- With the voters' single choices being spread across many candidates, it is likely that the top-two candidates will win with relatively few votes. So two candidates with limited support in the primary would be the only choices in the general election.
- Given that minor party candidates rarely get the number of votes as that of major party candidates, it is not likely that any minor party will be represented in the general election. This will threaten the ballot status of these parties. At a time when voter dissatisfaction with the defacto two-party system is at an all-time high, limiting voter choice by eliminating parties will not be seen as a step in the right direction.

All of these problem could be avoided by implementing IRV. The IRV scenario discussed above describes eliminating party primaries and applying IRV in the general election. Another possible scenario that would likely increase the election of moderates, but to a lesser extent, is to keep the party primaries but use IRV to select the winner.

The open/top-two primary would also create conflicts with existing and potential electoral reforms:

- Voters passed term limits for state and local offices. But, as discussed above, the open/top-two primary is based on a strategy of moderate candidates accumulating in office over time.
- Prop 15 in this June's election would establish a system of voluntary publicly financed campaigns. However, Prop 14 is a constitutional amendment so it would take precedent over Prop 15, which is a statute. Since Prop 15 was written for the current system, its implementation would be delayed until it could be modified for the new primary. Such modifications would have to wind through the legislature and again be presented to the voters.

Also, the open/top-two primary encourages more spending because of increased competition, which is contrary to the goals of Prop 15.

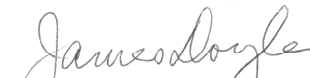
We hope you give due consideration to this letter when you make your recommendations on ballot propositions. And please encourage the SVLG to use their resources to study and promote more realistic and effective reforms.



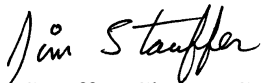
Steve Chessin, President  
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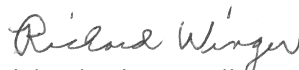
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