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BOARD OF ELECTIONS

IN
THE CITY OF NEW YORK
EXECUTIVE OFFICE, 32 BROADWAY
NEW YORK, NY 10004-1609
(212) 487-5300
FAX (212) 487-5349
www.vote.nyc.ny.us

**Testimony of
Michael J. Ryan
Executive Director
Board of Elections in the City of New York
before the
Committee on Governmental Operations
Council of the City of New York
regarding proposed legislation affecting the
conduct of elections in the City of New York**

November 21, 2013

Chair Brewer and members of the Council's Committee on Governmental Operations, I want to thank this Committee for providing the opportunity to appear before you on behalf of the Board of Elections. My name is Michael Ryan and I am the Executive Director of the Board of Elections in the City of New York.

I would like to take a moment to acknowledge Chair Gale Brewer. Over the past several years, first in my capacity as Commissioner and in my current capacity as Executive Director, I have come to work closely with Chair Brewer and have found her to be a tireless advocate not only for her constituents but for the voters of the City of New York as a whole. As Chair Brewer's work with the New York City Council draws to a close, I am taking this opportunity to wish her nothing but success in her future endeavors.

Joining me here today are the Board's:

- Deputy Executive Director Dawn Sandow
- Administrative Manager Pamela Perkins
- General Counsel Steven H. Richman
- Deputy General Counsel Raphael Savino
- Director of Electronic Voting Systems John Naudus
- Director of Communications and Public Affairs Valerie Vazquez

The Board of Elections in the City of New York (Board) has been asked to comment on several pieces of legislation before the City Council that would affect the conduct of elections. The Commissioners have authorized us to share the following with you:

Intro 488

Intro 488 requires that sample ballots be placed on the Board's website prior to each election. When utilizing the electronic poll site voting system, the Board provides sample ballots on its website prior to each election. When utilizing the mechanical lever machines, the Board provides the functional equivalent of sample ballots in the form of a contest list for each relevant sub-division. As such this bill codifies existing Board practice.

Intro 1192

Intro 1192 eliminates the requirement of a Run-Off for the offices of Public Advocate and Comptroller. The Board takes no position with respect to this proposed legislation. Eliminating the Run-Off requirement for Public Advocate and Comptroller has the potential to generate savings as an additional election would no longer be required assuming there is no Mayoral Run-Off.

Resolution 4A, Intro 1066, and Intro 1108

Resolution 4A calls upon the New York State Legislature to enact and the Governor to subsequently sign Assembly Bill A.7013, which would require instant run-off voting (IRV) in New York City primary elections for the office of Mayor, Comptroller and Public Advocate.

Intro 1066, is a local law to amend the New York City charter, which also calls for IRV.

Intro 1108 is a local law to amend the New York City charter, in relation to absentee and military voters utilizing IRV.

The Board takes no position with respect to these legislative proposals. The Board has identified several technical, operational and cost implications related to the implementation and conduct of IRV elections.

Instant run-off voting (IRV)

Technical

The electronic voting systems used by the Board as currently certified by the New York State Board of Elections (State Board) do not support IRV. The systems currently can provide a record of the votes cast; however, additional software would be needed to complete the vote tabulation in accordance with the pending legislation. Such software must be developed or procured and certified by the State Board prior to implementation.

Currently, the voting position for each candidate in each contest is tested at least once. In an IRV election, each ranked position, for each candidate, in each contest, must be tested at least once. This greatly increases the time and cost associated with legally mandated testing. Using this year's Democratic mayoral primary as an example, ten voting positions would have been tested. Under IRV, this would increase to one hundred voting positions.

Past experience has shown that development, testing and certification of modifications to the voting system exceeds one year. This process cannot commence until the proposed legislation is ratified. This legislation calls for enactment immediately following ratification by the voters. Such a provision does not square with the reality of the implementation process. In the event that the proposed legislation is enacted, our recommendation is to build in an appropriate time frame to allow for the implementation of IRV.

In recognition of this Committee's limited time, I would like to extend an invitation to have the Board's staff made available to discuss the technical details of using the current systems with IRV at a convenient date and time.

Operational

If the proposed legislation is enacted, Board staff would be required to develop an enhanced and extended training curriculum to facilitate the implementation of IRV. This would necessitate training poll workers sufficiently to effectively serve the voters during an IRV election.

The Board will be required to instruct poll workers on the appropriate manner of assisting voters, in a lawful and bi-partisan manner, to insure meaningful

understanding of the IRV method. IRV will increase poll worker / voter interaction on Election Day.

As an added complexity the poll workers and voters would only experience this type of election once every four years or during the occasional special election. Nonetheless, an extended version of training in the IRV method must be conducted each and every year to remain in compliance with New York State Election Law.

Although the pending legislation calls for the Voter Assistance Advisory Committee (VAAC) to conduct a voter education campaign, the Board would be required to undertake a voter outreach program to familiarize voters with IRV. The Board welcomes the opportunity to work closely with VAAC and others to extend the reach of our voter education campaign.

The introduction of IRV will require additional ballot space and will inevitably result in a multi-page ballot. Using multi-page ballots creates a host of concerns, not presently confronted with a single page full face ballot, including but not limited to: increased ballot jams, additional equipment, increased complexity of ballot management / accountability and additional ballot costs. Not to mention, any changes to the voting system would require State Board certification.

The increased complexity of an IRV ballot has the potential to lead to longer wait times as voters consider additional candidates and make the appropriate rank choices. The time it takes to use the Ballot Marking Device (BMD) could significantly be increased.

Voters correcting their ballots as a result of improper rank choices will likely increase the amount of voided ballots. Should a voter exceed the legally permissible three ballots, a court order is required to provide an additional ballot.

Costs

While it is difficult to accurately predict the cost increases, past experience has taught that significant additional resources will be necessary for the implementation of IRV.

It is expected that IRV will require transitioning to a multiple page ballot, it is estimated that ballot printing costs will increase by approximately \$1.75 million for each additional page.

The cost of development and certification to allow the voting system to properly tabulate IRV ballots is unknown at this time. To provide guidance in this regard, the Committee is advised that adding the Bengali language to the voting system cost in excess of \$480,000.

Upon certification by the State Board, the Board must install and test the new firmware for the voting system. The estimated cost for this is approximately \$600,000. For each citywide IRV election, the approximate additional cost for pre-election testing and setup is \$350,000.

The costs associated with additional training for the poll workers is difficult to assess; however, past experience permits a conclusion that the potential increase is in the range of \$2 to \$4 million per year.

The Board recognizes that to successfully introduce IRV to the voters, a comprehensive voter outreach program is necessary. Such a program will invariably require a substantial expenditure of resources. This expenditure will be essential to educate the voting public on this new voting method. For the Committee's information and consideration, the cost of the 2010 voter outreach program introducing the new poll site voting system was \$6.8 million.

These costs, while considerable, are offset by the savings of an estimated \$13 million spent on the 2013 citywide Democratic Run-Off Primary for Public Advocate.

Conclusion

Again, on behalf of the Board, I thank you for the opportunity to inform this Committee as to the implications of enacting IRV. While the Board takes no position with respect to the merits of enacting IRV or any other alternative to the current run-off primary, we assure this Committee, and the voters of the City of New York, that we will act in strict adherence to applicable and relevant city, state, and federal mandates.

The Board looks forward to working with this Committee and others toward the continued improvement of the voting process.