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May 23, 2016

San Diego City Council  
Attn: Honorable Sherri Lightner, Council President and Rules Committee Chair  
Attn: City Clerk  
City of San Diego, 202 "C" Street  
San Diego, California 92101

Dear Council President Lightner:

On behalf of the Independent Voter Project (IVP), we are submitting the attached idea for consideration by the San Diego City Council and the June 15th Rules Committee meeting, tentatively entitled "Right to Vote in the General Election Act." We believe such an Act should be considered for placement on the November 2016 ballot.

As you may be aware, IVP authored California's "Top-Two Nonpartisan Primary" reform, Proposition 14, approved by the voters in 2010. This new statewide primary system requires the top-two vote-getters to be on the general election ballot, regardless of the primary election percentages.

Of note, several advocates requested that IVP include a "50%+1" provision in the Proposition 14 language. Not only did we think this provision would open the proposition to a legal challenge (*see for example, Foster v. Love, 522 U.S. 67 (1997)*), we strongly believe that such a provision has a negative effect on the electoral process.

The Independent Voter Project believes that democracy functions best when the most people participate, and clearly, the most people participate in the general election in November.

Sincerely,

Jeff Marston  
Co-Chair, Independent Voter Project

Andrea Guerrero  
Executive Director, Alliance San Diego

## ATTACHMENT

### Statement from the Independent Voter Project

San Diego's "Citywide Primary" is not really a primary election. This is because, if a candidate receives more than 50% of the vote at this stage of the election, the election is over. However, election numbers show that the primary electorate is not only significantly lower than that of the November "general" election, but that minorities and nonpartisan voters are substantially under-represented at this critical stage of the election

In 2012, for example, only 2 of out of the 7 citywide races went to the general election, despite turnout in the primary being just 220,679 voters, compared to the general election's 448,138. That means, over 227,000 voters in November were cut out of the election process. And in 2014, voters had the right to vote in the general election for just 1 out of 4 citywide elections.

This is simply not right.

The curtailment of our election process to a single "Primary" stage, when far fewer voters are participating, deprives the electorate of their right to a full and meaningful election process. The law is also misleading to voters because the term "primary," itself, implies that a final election will follow.

To help protect the right to vote in the General Election, several California cities, including Chula Vista, have reformed their process to get rid of the "50%+1" rule.

The rationale is simple. Democracy functions best when the most people participate. This reform will help make sure that the electorate gets the right to participate in a full, complete, and open election process. It would guarantee that our most important electoral decisions -- choosing our Mayor, City Attorney and City Council -- will be decided in the November general elections, when the largest number of voters participate.

Because there is already an election in November, this proposal would have very limited cost to the public — it would only require adding a couple lines of print to the ballot. But the benefits to the public are immeasurable — including representatives that are accountable to more voters and a more robust public dialogue.

We are prepared to assist with any legal or other advice that would aid the Council in putting the "Right to Vote in the General Election Act." before the voters.

## ATTACHMENT

### Proposed Title and Summary

#### **Right to Vote in the General Election Act. Charter Amendment.**

In order to ensure the fullest possible voter participation in elections for Mayor, City Attorney and City Council and to increase accountability for city elected officials by scheduling their final election when the largest potential number of voters is likely to participate, shall the City Charter be changed to require the two finalist candidates for elected city office be chosen in a November general election?

### Proposed Charter Amendment

#### ARTICLE II

##### NOMINATIONS AND ELECTIONS

##### Section 10: Elections

##### Paragraph 7

All elective officers of the City shall be nominated at the municipal primary election. ~~In the event one candidate receives the majority of votes cast for all candidates for nomination to a particular elective office, the candidate so receiving such majority of votes shall be deemed to be and declared by the Council to be elected to such office. In the event no candidate receives a majority of votes cast as aforesaid, t.~~ The two candidates receiving the highest number of votes for a particular elective office at said primary shall be the candidates, and only candidates, for such office and the names of only those two candidates shall be printed upon the ballots to be used at the general municipal election.

Independent Voter Project

PO Box 34431 | San Diego, CA 92163 | (619) 207-4618



INDEPENDENT VOTER PROJECT  
CITY CLERK'S OFFICE  
16 JUN -6 AM 10:31  
SAN DIEGO, CALIF. June 6, 2016

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Attn: City Clerk  
City of San Diego, 202 "C" Street  
San Diego, California 92101

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As you may be aware, IVP authored California's "Top---Two Nonpartisan Primary" reform, Proposition 14, approved by the voters in 2010. This new statewide primary system requires the top---two vote---getters to be on the general election ballot, regardless of the primary election percentages.

Of note, several advocates requested that IVP include a "50%+1" provision in the Proposition 14 language. Not only did we think this provision would open the proposition to a legal challenge (*see for example, Foster v. Love, 522 U.S. 67 (1997)*), we strongly believe that such a provision has a negative effect on the electoral process.

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Sincerely,

Jeff Marston  
Co---Chair, Independent Voter Project

Andrea Guerrero  
Executive Director, Alliance San Diego

## Statement from the Independent Voter Project

San Diego's citywide and district primary elections are many times not really a primary election at all. This is because, if a candidate receives more than 50% of the vote at this stage of the election, the election is over. However, election numbers show that the primary electorate is not only significantly lower than that of the November "general" election, but that minorities and nonpartisan voters are substantially under-represented at this critical stage of the election.

In 2012, for example, only 2 of out of the 7 city races went to the general election, despite turnout in the primary being just 241,050 voters, compared to the general election's 466,962. And in 2014, voters had the right to vote in the general election for just 1 out of 4 city elections.

This is simply not right.

The curtailment of our election process to a single "Primary" stage, when far fewer voters are participating, deprives the electorate of their right to a full and meaningful election process. The law is also misleading to voters because the term "primary," itself, implies that a final election will follow.

To help protect the right to vote in the General Election, several California cities, including Chula Vista, have reformed their process to get rid of the "50%+1" rule.

The rationale is simple. Democracy functions best when the most people participate. This reform will help make sure that the electorate gets the right to participate in a full, complete, and open election process. It would guarantee that our most important electoral decisions-- choosing our Mayor, City Attorney and City Council-- will be decided in the November general elections, when the largest number of voters participate.

Because there is already an election in November, this proposal would have very limited cost to the public — it would only require adding a couple lines of print to the ballot. But the benefits to the public are immeasurable — including representatives that are accountable to more voters and a more robust public dialogue.

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