



CITIZENS UNION OF THE CITY OF NEW YORK

Testimony to the New York City Council On the Runoff- Related and Online Sample Ballots Legislation

November 21, 2013

Good afternoon Chair Brewer and members of the Governmental Operations committee. My name is Alex Camarda. I am the Director of Public Policy and Advocacy at Citizens Union. Citizens Union is an independent, non-partisan, civic organization of New Yorkers who promote good government and advance political reform in our city and state. Thank you for the opportunity to testify today on bills and a resolution related to the runoff election, and legislation pertaining to online sample ballots.

Citizens Union generally supports the need for and value of runoff elections. A candidate who wins party nomination in a multi-candidate primary, particularly the Democratic primary, with a small plurality of the electorate lacks the broader support needed to effectively govern. Runoff elections, however administered, enable candidates to earn support from more voters and gain a greater mandate that allows the victor to more effectively govern. Runoff elections also serve as an important check against extremist candidates who can appeal to a narrow portion of the electorate during times of economic and social upheaval, and potentially rise to power.

While Citizens Union believes runoff elections should be maintained we think they can be administered more efficiently and with greater participation by conducting them *instantly* via Instant Runoff Voting (IRV) (also known as ranked choice voting).

We additionally support the posting of sample ballots online to enable voters to preview their ballots.

Our in-depth positions on the legislation are as follows:

1. **Int. No. 1066 (Lander)** - Citizens Union strongly supports this bill. It is beneficial for a number of reasons:
 - a. **Int. No. 1066 enables more voters to participate.** There is a dramatic decline in voter turnout between the primary and runoff elections, meaning fewer voters weigh in on who is the best among the candidates that advance to the second round of voting. In the Democratic runoff election this is often tantamount to choosing the officeholder. In 2013, for example, 16.4 percent of registered Democrats voted in the primary election for public advocate. Only 5.7 percent

turned out for the runoff election, a staggering decline of 345,089 voters, or 65 percent. In 2009, when both the comptroller and public advocate had runoff elections, there was also a steep decline in turnout between the primary and runoff elections. 11.5 percent of voters voted in the public advocate primary that year, but only 7.3 percent in the runoff, a 36 percent drop-off. 11.7 percent voted during the primary for comptroller, yet only 7.6 percent did so in the runoff election, a 35 percent decline. With IRV, more voters express their preferences for candidates at one time during the primary election. The same electorate participates in the primary and, if necessary, the runoff election. Therefore the ultimate victor truly possesses majoritarian support, and a greater mandate to govern as a result.

- b. Int. No. 1066 results in positive campaigns focused on the issues.** IRV is thought to make candidates think twice about making negative statements about their opponents because it could cost them support from voters who may choose a candidate as their second choice. Therefore candidates tend to focus more on substantive policy issues that elevate the public discourse and turn attention to the important matters facing the electorate. During the runoff election, the campaign for public advocate between State Senator Dan Squadron and Councilmember Letitia James became very heated with personal accusations being made by each candidate about their personal finances and trustworthiness.¹ The final days of the campaign featured an anonymous robocall attacking a candidate's character and a victory speech that did not acknowledge the opponent. This stands in sharp contrast with reports of the mayor's race in Minnesota, which for the first time utilized IRV, and featured candidates declining to attack their opponents in order to obtain second-choice votes. Minnesota Public Radio called the race "a remarkably positive campaign" and outgoing Mayor R.T. Rybak said, "the lack of rancor was refreshing" and "people can compare and contrast [candidates] without ripping each other's esophagus out."² Citizens Union believes IRV can create more civility in campaigns, which is even more important with the growing number of independent expenditures. It is quite possible that independent actors will hesitate to attack opponents of candidates they support with IRV because it could cost the candidate second-choice votes.
- c. Int. No. 1066 makes elections more cost-effective.** The city spent \$13 million administering a runoff election in 2013 for the public advocate's office, which

¹ Katz, Celeste. "Ahead of runoff, candidates Daniel Squadron and Letitia James bash each other in public advocate debate," New York Daily News. September 24, 2013. Available at: <http://www.nydailynews.com/news/politics/public-advocate-debate-squadron-james-turns-bashathon-article-1.1466682#ixzz2l2Gcxa6>

² Gilbert, Curtis. "Ranked choice voting gets mostly good reviews," MPR News. November 7, 2013. Available at: <http://blogs.mprnews.org/cities/2013/11/ranked-choice-voting-review/>

only has a \$2.1 million annual budget.³ With Instant Runoff Voting as envisioned by the Lander bill, the city could instead spend this money on services important to the city and the Council like additional police officers, extended library hours or keeping firehouses open at time when the city's budget is forecasted to be \$2 billion in deficit in FY2014.

2. **Int. No. 1108 (Brewer)** - Citizens Union backs this legislation. Under the current system of a primary election and separate runoff three (or two) weeks later, military and absentee voters may not have adequate time to cast their ballots and when they do, the proportion of ballots cast and counted decreases. This is shown on the charts below.

PRIMARY ELECTION	Absentee	Military	Total
Ballot Applications	47,400	1,905	49,305
Ballots Cast	22,057	276	22,333
Ballots Cast of Ballot Applications	46.53%	14.49%	45.30%
Ballots Counted	21,507	215	21,722
Ballots Not Counted- Late (Postmarked or Received)	550	61	611
Postmarked Late	431	34	465
Received Late	119	27	146
Proportion Not Counted (of ballots cast)	2.49%	22.10%	2.74%

DEMOCRATIC RUN-OFF ELECTION	Absentee	Military	Total
Ballot Applications	40,347	1,481	41,828
Ballots Cast	12,926	148	13,074
Ballots Cast of Ballot Applications	32.04%	9.99%	31.26%
Ballots Counted	12,235	65	12,300
Ballots Not Counted- Late (Postmarked or Received)	756	83	839
Postmarked Late	599	49	648
Received Late	157	34	191
Proportion Not Counted (of ballots cast)	5.85%	56.08%	6.42%

PRIMARY VS DEMOCRATIC RUN-OFF ELECTION	Absentee	Military	Total
Decrease from Primary Election in Proportion of Ballots Cast	14.49%	4.50%	14.04%
Increase from Primary Election	3.36%	33.98%	3.65%

³ As reported by NBC. See <http://www.nbcnewyork.com/news/local/Public-Advocate-Runoff-New-York-City-225923801.html>

in Proportion of Ballots Not Counted			
---------------------------------------------	--	--	--

- a. **Int. No. 1108 enables the Board of Elections in the City of New York to send ballots to military voters for the runoff election 32 days prior as required by state statute, increasing the likelihood that ballots cast by military voters count.** Under Article 10, section 108 of New York State Election Law “ballots of military voters shall be mailed or otherwise distributed by the board of election...as soon as is practicable but in any event not later than thirty-two days before a primary or general election.” It is impossible for the Board to mail military ballots 32 days before the runoff election (considered a primary election⁴) as there was only 21 days between the primary and runoff election in 2013, and in years past and future, only 14 days between the two elections. The Board this year mailed military ballots 10 days before the runoff election, out of compliance with state law.

The short timeframe may have contributed to the fact that more military ballots *did not count than counted* for this year’s runoff because they were postmarked or received late (see chart on page 4). Eighty-three military runoff ballots casted were not counted because they were postmarked or received late. Sixty-five military ballots were counted. By contrast, for the primary election 215 military ballots were counted while 61 were not because they were postmarked or received late. Even more troubling is that only 158 military voters, or 9.99 percent, cast a ballot during the runoff election even though 1,481 received ballots as compared to 14.49 percent of military voters receiving ballots for the primary casting their ballots. While military voters represent a very small number of overall voters, the numbers nevertheless show **4.5 percent fewer military voters cast their ballots during the runoff election, and 33.98 percent fewer had their ballots counted as compared to the primary election.** This may be due to the additional time afforded military voters to cast their ballots during the primary election. Citizens Union believes members of the United States Armed Forces fighting overseas – in some instances to establish democracy in foreign nations – should be given ample time to exercise their franchise at home. Ranked choice voting accomplishes that, and is done successfully for military voters in South Carolina and Arkansas.

- b. **Int. No. 1108 provides absentee voters with additional time to cast their vote, increasing their likelihood of participation.** While there is not a statutory requirement that absentee ballots be sent a particular number of days before a primary (or runoff) election, there is reason to believe that the quick turnaround between the primary and runoff election impedes voting by absentee voters.

⁴ Election Law 8-100 refers to the runoff election as a primary election, stating, “In the event a run-off primary election is required in the city of New York, it shall be held on the third Tuesday next succeeding the date on which the initial primary election was held.”

The Board this year mailed absentee ballots 10 days before the runoff election. That may have contributed to the fact that more absentee ballots did *not count* for this year's runoff election (756 ballots or 5.85 percent of absentee ballots cast) as compared to the primary (550 ballots or 2.49 percent of absentee ballots cast) because they were postmarked or received late (see chart on page 4). Also concerning is that only 22,057 absentee voters, or 32.04 percent, cast a ballot during the runoff election even though 40,347 received ballots as compared to 46.53 percent of absentee voters receiving ballots for the primary casting their ballots.⁵ While absentee voters represent a small number of overall voters, the numbers nevertheless show **14.49 percent fewer absentee voters cast their ballots during the primary, and 3.36 percent fewer had their ballots counted as compared to the primary election.**⁶ Citizens Union believes permanent absentee voters, including disabled residents, should have more time to vote in a runoff election so the likelihood increases that their vote will count. Int. No. 1108 will very likely result in increased participation rates for absentee voters.

3. **Proposed Res. No. 4-A (in support of A. 7013 (Kavanagh))** - Citizens Union supports this resolution calling on the state legislature to pass into law Assemblymember Brian Kavanagh's bill that would replace the separate runoff held for citywide offices with an instant runoff election. We thank Assemblymember Kavanagh for his efforts in advancing IRV. While the system for tallying the vote is different than that for the Lander bill (only the top two candidates receiving the most first-choice votes are able to win in the instant runoff), Citizens Union believes it is most important to establish Instant Runoff Voting at this juncture and has not settled on which is best way to tally the votes to determine which candidates is preferred by voters when they have not received the voters' first-choice vote.

Kavanagh's legislation provides a potential middle ground between the Brewer and Lander bills by focusing only on the citywide races and limiting the runoff to the top two finishers in first-choice votes. The Council could also pass a bill consistent with the provisions of the Kavanagh bill which Citizens Union would support.

4. **Int. No. 488 (Brewer)** - Citizens Union supports this legislation which requires the City Board of Elections post sample ballots online one week before an election. Citizens Union has long supported placing sample ballots online. In November 2010, Citizens Union released an analysis showing that the local boards of elections in twenty-seven counties in New York State – representing almost half of all counties – posted sample

⁵ The overall decline in participation between the primary and runoff elections for absentee and military voters combined was 14.04 percent or 9,259 voters numerically. This exceeds the actual drop off at the polls, which was 10.7 percent. One would expect the drop off to be less among military and absentee voters since they actually went to the trouble to request a ballot.

⁶ There are 2,782 military voters and 31,650 permanent absentee voters registered in New York City according to the Board of Elections 2012 annual report.

ballots online for voters to familiarize themselves with the ballot and races prior to entering the polling place.⁷ The City Board approved the policy three weeks later and placed sample ballots online for the first time in November 2011. It has done so in every election since then when optical scan machines have been used to administer an election. However, when the lever machines were brought back for the primary and runoff elections this year, the Board did not provide online sample ballots but rather a listing of candidates for the offices voted on by the voter linked to their address. Citizens Union believes the Board should be required to put sample ballots online that reflect what voters will see on Election Day irrespective of the type of voting machine used. We are pleased to see this legislation does just that, requiring sample ballots be made in conformance with New York State Election Law 7-118 which states, “The board of elections shall provide facsimile and sample ballots which shall be arranged in the form of a diagram showing such part of the face of the voting machine as shall be in use at that election. Such facsimile and sample ballots shall be either in full or reduced size and shall contain suitable illustrated directions for voting on the voting machine.”

Thank you for the opportunity to testify today. I welcome any questions you may have.

⁷ See analysis at:

http://www.citizensunion.org/www/cu/site/hosting/Reports/CU_SampleBallotResearch_November2010.pdf along with a map of New York counties utilizing sample ballots at:
<http://www.citizensunion.org/www/cu/site/hosting/images/CUsampleballotmap.jpg>