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*Via email*

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Dear Members of the Tennessee Senate State and Local Government Committee:

We write today regarding S.B. 2271. We ask that you do not overturn the will of the voters of Memphis. In 2008, 71% of Memphis voters approved implementing Instant Runoff Voting (IRV) for city council elections. That choice has already been delayed for a decade. The legislature of the state should not overturn the lawful decision of a municipality's people of how they want to govern themselves, without an exceedingly good reason. There is no such reason here. IRV is a simple, cost effective measure that promotes civic participation.

IRV is simple. Once in the booth, voters rank their top three candidates for office in order of preference. That is all that is asked of the voter. As long as clear instructions are provided, there is little chance of voter confusion. One study of voters in California found that in elections with ranked choice voting, less than 1% of voters improperly marked a ballot.<sup>1</sup> On the other hand, in the same areas, about 4.5% of ballots in a non-IRV race were improperly marked and therefore invalid.<sup>2</sup> In other words, the same voters made far more mistakes in the traditional election than the IRV election.

The process is not difficult for election officials, either. Once voting is done, election officials first count all the first-choice votes. If a candidate gets a majority of first-place votes, they win. If no candidate gets a majority, the candidate with the least first-place votes is eliminated, and the second-choice votes on those ballots gets counted. This process continues until someone has a majority of votes. That person is the winner.

Rather than being more burdensome to voters, IRV is easier than the current traditional runoff system. In Memphis's current system, if there is no candidate with a majority after the first round, the city has to run (and pay for) a second election in that district. Voters have to get the information about a new election, find time to

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<sup>1</sup> FAIRVOTE, KEY FACTS ABOUT THE USE OF RANKED CHOICE VOTING IN 2014 IN CALIFORNIA'S BAY AREA 2 (2015), <https://d3n8a8pro7vhmx.cloudfront.net/fairvote/pages/426/attachments/original/1449182016/Key-Facts-About-2014-Ranked-Choice-Voting-Elections-in-Bay-Area-April2015.pdf?1449182016>.

<sup>2</sup> *Id.*

participate, and vote a second time. Many voters simply cannot take time off from their other responsibilities for second time in quick succession to vote in a second election.

This practical hurdle is borne out in reality. There is a very large drop-off in the number of people who participate in runoff elections in Memphis. According to FairVote, 80% of people who voted in the first round of the election *did not* vote in the runoff. Further, this drop-off operates in a discriminatory manner. Drop-off in some affluent areas is around 50% from the general election to the runoff whereas drop-off in low-income areas is as bad as 95%.

Further, the burdens of poverty are disproportionately held by black people in Memphis. Thirty three per cent of black people were below the poverty line in 2016 in Memphis compared to 15% of whites.<sup>3</sup> According to FairVote, in precincts in Memphis that are less than 10% black, turnout is around 12% in runoff elections. In precincts that are more than 40% black, turnout is around 3%. In other words, whiter areas of the city are *four times* more likely than areas with more black people to vote in runoff elections.

This reform would also save money. By eliminating the need for runoff elections, IRV eliminates the need to hire poll workers, move equipment, secure space, and all of the other administrative costs of an election. It is estimated that this would save Memphis \$250,000 a year.<sup>4</sup>

Some opponents have gone beyond legitimate criticism and have made misleading and misguided arguments against IRV that should be dispelled. Councilmember Edmund Ford Jr. has argued that if all of the candidates that a voter has ranked are eliminated, then that voter's ballot is "exhausted" and put aside.<sup>5</sup> Like in any voting system, votes for a losing candidate do not end up

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<sup>3</sup> *Poverty Status in the Past 12 Months 2012-2016 American Community Survey 5-Year Estimates*, CENSUS (2017), [https://factfinder.census.gov/bkmk/table/1.0/en/ACS/16\\_5YR/S1701/1600000US4748000](https://factfinder.census.gov/bkmk/table/1.0/en/ACS/16_5YR/S1701/1600000US4748000).

<sup>4</sup> John Marek, *Making the case for instant runoff voting.*, THE MEMPHIS FLYER (Nov. 30, 2017), <https://www.memphisflyer.com/memphis/making-the-case-for-instant-runoff-voting/Content?oid=9865239>.

<sup>5</sup> Edmund Ford Jr., *Ford: Instant Runoff Voting a flawed idea, failed experiment*, THE COMMERCIAL-APPEAL (Dec. 1, 2017),

affecting who gets elected. In IRV, in fact, far more voters will end up with a vote. Turnout in traditional runoff elections in Memphis is abysmal. According to FairVote, in the five runoff elections in Memphis in 2015, turnout averaged under 10%. Only 20% of people who voted in the first round of elections voted in the runoff.

Councilmember Ford also argued that someone could win with less than a majority of the vote.<sup>6</sup> This is not true, either. They may not get a majority of the vote in the first round of counting, but would receive a majority in the subsequent rounds. This is effectively the same thing that happens in the traditional runoffs that Memphis now employs. People who voted for a candidate that lost in the first round now have to vote for one of the two remaining candidates who may have been their second, third, or fourth choice.

Councilmember Ford has also stated that IRV would mean that “[y]ou are essentially letting a computer, instead of a set of constituents, decide who should then be elected.”<sup>7</sup> This is a patently absurd statement that only serves to show that Mr. Ford simply does not understand what he is fighting against. Computers count votes in IRV just like they do in Memphis’s current system. The voting itself (expressed through the identification of preferred candidates, via voting), under either system, is carried out by the people of Memphis, and the winner is therefore determined by the votes of the constituents.

Councilmember Ford also complained that a group of candidates may “collude” to prevent another candidate from being in the voters’ top three choices and therefore go unranked.<sup>8</sup> Preventing one’s political opponents from being elected is the normal operation of elections in a democracy. If IRV promotes candidates being friendly toward other candidates of a similar viewpoint, that only means that IRV is promoting more collegial elections. In the current period of intense divisiveness in our politics, this can only be a good thing.

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<https://www.commercialappeal.com/story/opinion/contributors/2017/12/01/instant-runoff-voting-flawed-idea-failed-experiment/905465001/>.

<sup>6</sup> *Id.*

<sup>7</sup> Bill Dries, *Juxtaposing Views Greet Voting Change*, MEMPHIS DAILY NEWS (July 26, 2017), <https://www.memphisdailynews.com/news/2017/jul/26/juxtaposing-views-greet-voting-change/>.

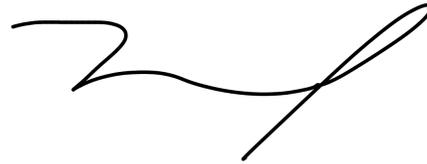
<sup>8</sup> *Id.*

Finally, and most importantly, particularly where the Constitution of the State of Tennessee specifically grants “home rule” powers on certain municipalities, Memphis voters have spoken and their will has been deferred for far too long. IRV is a simple, cost saving system that promotes civic participation. Memphis has made a choice about its system of governance. It is a vital part of our system that localities be able to be laboratories of democracy. The state should not interfere in this essential process. We ask that you do not overturn the choice of the people of Memphis or other voters in the State who may wish to implement IRV.

Sincerely,



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