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The Top Two Runoff – An Assessment

Tony Quinn

The most important impact of California's new open primary and Top Two general election is that all the voters in a district are able to participate in choosing their elected officials. Under the prior system, voters in a closed primary chose party nominees, and in more than 90 percent of the cases, the party nominee was easily elected in November.

Allowing all voters in a general election – not just partisans in a low-turnout primary – to make the decision is now beginning to have an impact, and those politicians who ignore this new system do so at their own risk. Just ask former Assemblyman Raul Bocanegra.

Bocanegra was elected to a heavily Democratic Assembly seat in the San Fernando Valley in a same-party runoff in 2012, and was not term-limited until 2024. An up-and-comer among Assembly Democrats, he spread his campaign cash around in 2014 hoping to curry favor for a leadership post. But Bocanegra overlooked one little detail: He was running in another same-party runoff in 2014. His opponent was a totally unknown community activist named Patty Lopez.

So Bocanegra, who had bested Lopez by 63 to 24 percent in the June primary, ignored the Lopez challenge in November. No Republican could ever have won this seat; it has only 17 percent GOP registration. But Lopez was a fellow Democrat, and on November 4 she shocked the Sacramento political establishment by ousting Bocanegra. No one to this day is exactly sure why, except for the obvious fact that Bocanegra considered himself so safe he did not spend any money on his own reelection.

Birds on a telephone line notice when one bird falls, and Sacramento legislators noticed the Bocanegra upset. So now we have one very real impact of the new Top Two runoff – legislators who would have been safely nominated and assured reelection under the closed primary can be vulnerable if they are challenged by members of their own party in the runoff.

In 2014, there were 25 same-party runoffs for Assembly, Senate, and Congress. Not all, of course, were serious campaigns, but some candidates understood the new dynamics of the same party runoff and appealed to members of the other party, which had no candidate on the ballot.

This happened in the heavily Democratic 6th Senate district, which covers mostly the city of Sacramento. The two top finishers in the primary were the two Assembly members, Assemblymen Roger Dickinson and Richard Pan, both Democrats. Assemblyman Pan, a pediatrician, was strongly supported by an independent expenditure committee called Californians Allied for Patient Protection.

It flooded Republican and independent voters' mailboxes with direct appeals for these voters to cast a ballot for Democrat Pan. "California's open primary law allows the top two vote getters to face off in the November election," explained one pro-Pan mailer. "In this Senate seat, the choice is between two Democrats. Study the records of Dr. Richard Pan and Roger Dickinson

before voting. Which Democrat shares some of your values?” The mailer went on to appeal to Republicans by pointing to Dickinson’s heavy support from trial lawyers, a reliable GOP bugaboo.

Another mailer featured a strong endorsement for Pan from retiring Sacramento County District Attorney Jan Scully, a well-known and well-respected Republican, while others stressed that Pan was the candidate of law enforcement. Pan trailed Dickinson in the primary, 40 to 31 percent, and his chances of winning in November depended on getting the votes of the 29 percent who did not cast a ballot for a Democrat in June, and especially making sure they did not skip the race because there was no Republican candidate. It worked and Pan won with 54 percent of the vote in November.

In the overlapping 9th Assembly district, again two Democrats, Sacramento Councilman Darrell Fong and Elk Grove Councilman Jim Cooper, who between them received 70 percent of the primary vote, faced off in November, and both appealed to Republicans. Cooper was successful in the contest; one of his mailers included a “fellow Republicans” letter from two former Sacramento county sheriffs who are well-known Republicans.

A major claim of proponents of the Top Two primary is that it will result in a more moderate legislature. While this cannot be determined at this point other than by anecdotal evidence, there are signs of more moderation caused by the candidates’ felt need to appeal to all the voters in their districts. The Assembly district represented by Tea Party Republican Tim Donnelly elected a more mainstream conservative when Donnelly, who was elected under the old closed primary, did not run again. In Berkeley, the Assembly seat that had always sent the most liberal Democrat to Sacramento was captured by a Democrat heavily supported by business interests.

Perhaps the biggest impact of the Top Two is its effect on candidates. There may be fewer future Raul Bocanegas as elected officials see that they must pay attention to the needs of their own voters, and that means all the voters in their district, not just the hard-core partisans. To a large degree, that is what the proponents of the Top Two runoff promised, and that is what is happening.

Tony Quinn is the co-editor of the California Target Book, a nonpartisan analysis of California's legislative and congressional elections, and is the author of several books, including Carving Up California, a history of California redistricting from 1951 through 1984. He has more than 40 years of experience in state government and politics in many positions.