Manipulating the Vote

Don Perata has been sending letters and conducting closed-door meetings in what looks like an effort to force Jean Quan out of the Oakland mayor's race.

By Robert Gammon

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Don Perata is a master at outmaneuvering his opponents. In the late 1990s, he helped convince Keith Carson to run against Dion Aroner for state Senate. Then he jumped into the race and beat both because they split the progressive vote. In Sacramento, he consistently outflanked his opponents as he rose to the top of the Democratic Party. And now, critics say he's up to old tricks again, attempting to force his main competitor, Councilwoman **Jean Quan**, to drop out of the Oakland mayor's race. If successful, he also will have thwarted the will of more than two-thirds of city voters.

Understanding Perata's behind-the-scenes machinations in recent weeks requires a bit of background about a 2006 law approved by 69 percent of Oakland voters. It was known as Measure O, and it requires the city to change the way politicians are elected from a traditional primary and general election format to a single election using ranked-choice voting, also known as instant runoff voting. The measure was backed by progressives and a coalition of good government advocates, including the League of Women Voters.

The law requires Oakland to use the new election format for the 2010 mayoral and city council races once Alameda County Registrar **Dave MacDonald** declares that the county is ready. In an interview last week, MacDonald said he was confident he would be able to make that declaration in the coming weeks. He's currently awaiting approval from the office of Secretary of State **Debra Bowen**, and said he expects to receive the okay soon. "The good news is that we're using exactly the same hardware and software that's being used in San

Francisco," MacDonald said, noting that San Francisco has already won approval from Bowen's office. Berkeley and San Leandro also plan to move to ranked-choice voting.

But Perata is attempting to block the new format from going into effect next year. In typical Perata fashion, he hasn't explicitly come out against the popular plan. Instead, in a letter sent last month to County Administrator **Susan Muranishi**, he raised several "issues" that he has with it. "It is important to get this right," he wrote in his September 11 letter, after listing off eleven of his concerns. "In a time of great cynicism, when people feel disconnected from their government, this election will be widely watched." (Speaking of cynicism, Perata invoked his former office by penning his letter on official-looking stationary that says "California Legislature" and "Ret. President Pro Tem State Senate" in big letters at the top, but then added a small disclaimer at the bottom that says: "This is not a public document.")

Not surprisingly, the ex-senator stands to benefit if Oakland does not go ahead with the new format next year, while Quan would be at a disadvantage. She could be forced to run two elections instead of one against the most prodigious fund-raiser in recent East Bay history. Perata also has better name recognition than Quan, which likely will give him a big edge in the June primary when far fewer people vote. "It's obvious that he's trying to intimidate me out of the race," Quan said.

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It also shouldn't come as a surprise that Perata, who is expected to have a huge campaign war chest, would rather have two than one election cycles in which to raise money. Perata has said he will limit individual donations to $100, but he has a storied history of maintaining close ties to "independent" committees that raise huge sums of money on his behalf.

In an interview, Perata campaign manager **Larry Tramutola** denied that the ex-state Senate leader was angling to gain advantage over Quan. Instead, he said Perata had legitimate concerns about ranked-choice voting that he believes have yet to be adequately addressed. "You're looking at something as sacred as voting for elected representatives," Tramutola said. "Let's do it right."

But on closer examination, there appear to be relatively simple answers to Perata's questions. One of his main arguments is that it will cost Oakland a lot of money that it doesn't have to launch and operate an effective voter-education campaign, especially for minority voters and seniors. In his letter to Muranishi, Perata predicts "widespread voter confusion."

However, it turns out that the amount of money Oakland will save by not holding a June primary will be more than enough to finance a voter-education campaign. According to MacDonald, Oakland typically spends about $800,000 for a June primary. But a voter-education campaign is projected to cost less than that. MacDonald estimated that the total cost for the voting machine software and hardware and educational materials will be about $1 million for the three cities — Oakland, Berkeley, and San Leandro — and Oakland only has to pay its proportion of that. Oakland would only lose money if the council puts a measure on the June ballot, thus forcing a second election.

Moreover, ranked-choice voting may sound complicated, but it's actually simple. Voters get to pick their top three choices, instead of just one. That way, if no candidate gets a majority of the votes, then the candidate with the least number of votes is eliminated until there is a winner. It's the equivalent of having an instant runoff without paying for a second election. "It's not some mysterious thing," said Oakland Councilwoman **Rebecca Kaplan**, who is a big supporter of the new format and wants it implemented next year. "Ranked-choice voting is as simple as one, two, three. It's who's your first choice, who's your second choice, and who's your third choice."

Perata, however, is not the only one trying to derail ranked-choice voting next year. His longtime political ally, Oakland Vice Mayor **Ignacio De La Fuente**, fired off a letter late last week to Secretary Bowen, urging her to withhold certification of the new voting system. De La Fuente argued that the city and county have yet to come up with a "carefully planned outreach strategy" for educating non-English speaking voters.

However, **Steven Hill**, director of the New America Foundation, a progressive organization that also backed Measure O and has been closely monitoring developments in the East Bay, contends that Bowen has no legal jurisdiction over the county's planned voter-education effort. Instead, her job is to examine the voting hardware and software. Moreover, supporters of ranked-choice voting say that even though Perata and De La Fuente contend that they're concerned about minority voters, their effort to force two elections will actually disenfranchise huge numbers of non-English speakers, because they tend to not participate in June primaries. Bowen's office did not return phone calls, seeking comment for this story.

So what happens next? As MacDonald awaits word from Bowen, the county is working through details of how the cities involved will reimburse it for the software, hardware, and educational materials. **Alix Rosenthal**, a lawyer in the office of Oakland City Attorney **John Russo**, said late last week she was close to having those details ironed out in the form of a memorandum of understanding that should be ready for the city council soon. The cities want to make sure that they're reimbursed if other cities in the county later decide to implement ranked-choice voting, too.

But some supporters of the new format are worried that the council, led by De La Fuente, may attempt to block ranked-choice voting next year by delaying approval of the MOU or voting it down. Council President **Jane Brunner** said Perata contacted her about his concerns, but she said the council's hands may be tied by Measure O. "It's a voter mandate," she said.

Russo's office appears to agree. "We're really obligated to move forward with ranked-choice voting," Rosenthal said. Russo supported Measure O in 2006 and Rosenthal, who is the former president of the San Francisco Elections Commission, endorsed it before joining the City Attorney's Office.

But not all of Measure O's backers feel the same way about it. For example, Councilwoman **Pat Kernighan**, who was one of the official co-sponsors of the measure, along with Councilwoman **Nancy Nadel**, told Full Disclosure that she's less "enthusiastic" about it than she was. She also voiced some of the same questions as Perata and De La Fuente, including the worry about voter confusion. It also should be noted that Kernighan is up for reelection

next year, and supporters of the new format believe that it helps non-incumbents — although the jury is still out as to whether that's true.

Regardless, Hill contends that Oakland has no choice but to use the new format once MacDonald announces that the county is ready. He notes that Measure O specifically states that the city "shall" implement ranked-choice voting. As for Perata, Hill contends the former senate leader is trying to rig the system in order to clear the field of opponents. "He wants to manipulate the vote to help his election," Hill said. "And he's trying to thwart the will of the voters."