

Date: April 24, 2024

To: Colorado Title Board

From: Linda Templin, MPA

Re: 2023-2024 #307, #308, #309, #310, #312 & #313

Motion for Rehearing is accurate in some instances, and inaccurate in others.

Is RCV a separate subject from IRV? No.

Ranked Choice Voting (RCV) is the modern, voter-centered language for a preferential ballot. When RCV ballots are used in a single-winner race, they are inseparable from the Instant Runoff Voting (IRV) tally. There is no other way for voters to make their wishes known without a separate round of polling.

Robert's Rules of Order uses the older name from the late 1800's for the RCV/IRV vote and tally method, which they still call 'preferential voting.' It identifies that the best means of finding the consensus of a majority is multiple rounds of in-person voting with debate in between each poll. If multiple rounds of in-person voting is not practicable, then Roberts' Rules dictate the use of 'preferential voting' to determine the will of the majority.

Might voters be confused? No.

Voters normally get their paper ballots and then those ballots are tallied. Voters do not see this as a separate process because it is part of running a single election.

Can a #3 win the majority in RCV? Rare and only if they earned a majority of the support.

RCV protects the will of a majority - even when there are many candidates. It is very rare that in a large field of candidates, the top candidates have such a narrow margin between them that #3 is ahead in the final round of tally.

When the first-choice votes are tallied, the candidate with the most support usually wins outright. In the instance where no candidate has a majority, there is an instant runoff tally to determine which candidate truly earned the support of a majority of voters. The candidate with the fewest first choice votes is eliminated and their voters ballots are counted for their second-choice candidate. If a candidate now has a majority of support, they win. The process repeats until the will of a majority has been identified.

RCV allows there to be more than two candidates without the hazard of splitting the majority. The candidate who has the most votes at the end of the first round wins 95% of the time. The candidate who has the second-most votes at the end of the first round wins 5% of the time. The candidate who has the third-most votes at the end of the first round wins less than 0.05% of the time.

Might voters be confused? No.

On its face, most voters need one-and-a-half minutes to comprehend a verbal, written, or video clip explanation. Voters with advanced university educations are well-equipped to belabor minor points, but that can be said of the sun rising in the East.

Is an Instant Runoff a snap election? No.

RCV races are tallied on the same timeline as non-RCV races. In RCV live demonstrations, it is not unusual for one voter in thirty to want clarification that the same ballots are used to find which candidate passes the majority threshold. It doesn't override their desire to have more options on the ballot without splitting the majority, but they do ask if it is not stated explicitly. If proponents accede, there would be a short segment of title that explains that the same ballots are used to run the instant runoff. In Colorado, the final results are delivered on the same time schedule as non-RCV elections.

Policy note to stakeholders unaware of the process:

Alaska elections take longer because they have to ship the ballots over 2,000 miles down the coast from the Aleutian islands for central tally in Juneau¹. By contrast, in Colorado the ballots would be tallied at the county level, the cast vote records electronically submitted to the office of the Secretary of State. The office of the Secretary of State would finalize the tally, and then an audit would be conducted confirming that the records used by the office of the Secretary of state match individual ballots retained by the office of each county clerk.

Might voters be confused? No.

The title language can clarify that it is a single polling or round of balloting.

Is RCV a substantial change to elections? Yes.

As seen in the motion for reconsideration, many voters who are unfamiliar with RCV view it with suspicion. Even though RCV has been used in American elections since 1915, some people are worried that their political rivals are trying to marginalize and exclude them. This is not an irrational concern because it does happen in other areas of elections such as ballot access. Even though there could be a very brief descriptor of RCV in the same title as one for the all-candidate primary, it runs the hazard of excluding voters by failing to clearly express the subject of RCV in the title.

Might voters be confused? Maybe.

To be sufficient the title will have to explain what RCV is, which would most likely not leave room for the substantial changes being proposed for the primaries.

¹ <https://www.elections.alaska.gov/Core/alaskavotecountingsystems.php>

Are All-Candidate Primaries necessary for RCV? No. Primaries are not necessary for a general election to occur. Colorado began using state primaries in the 1910's². In the Presidential contests, Colorado used caucuses from 2004 to 2016.

Maine has a history of using RCV in the general election without blanket primaries. There is no reason to have all-candidate primaries and RCV in the same measure, other than the proponent's preference to piggyback all-candidate primaries onto RCV because it serves as a "shiny object" to win support where it would not otherwise be won.

Title Language: Expanding Voter Choice: RCV-only.

RCV expands voter choice in that voters can rank their preferences without fear of being excluded from the final tally. RCV contests tend to have a greater variety of candidates on the ballot both by demographics and by viewpoint. If proponents' measures are bifurcated, their RCV measure may fairly use reference to the expansion of choice because in fact that is what it does.

If all-candidate primaries are bifurcated from RCV November elections, use of reference to "expanding voter choice" in the RCV measure would be accurate.

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<https://www.cambridge.org/core/journals/journal-of-policy-history/article/direct-democracy-during-the-progressive-era-a-crack-in-the-populist-veneer/DCC97C9CEBC4A0CB91A5BB4875F5D861>