

# HOUSE BILL REPORT

## HB 1722

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### As Reported by House Committee On: State Government & Tribal Relations

**Title:** An act relating to local options for tabulating votes in an election.

**Brief Description:** Concerning local options for tabulating votes in an election.

**Sponsors:** Representatives Gregerson, Hudgins, Doglio, Macri, Dolan, Goodman, Robinson, Blake, Fitzgibbon, Lovick, Shewmake, Sells, Peterson, Stanford, Appleton, Ryu, Frame, Thai, Stonier, Wylie, Riccelli, Morris, Jenkins, Tarleton, Ortiz-Self, Slatter and Bergquist.

#### **Brief History:**

##### **Committee Activity:**

State Government & Tribal Relations: 2/20/19, 2/22/19 [DP].

#### **Brief Summary of Bill**

- Permits the use of ranked choice voting (RCV) in elections for offices in counties, cities, towns, school districts, fire districts, and port districts.
- Establishes certain requirements for RCV ballot design and vote tabulation.
- Allows jurisdictions using RCV to hold a top-five primary or eliminate the primary.
- Allows jurisdictions using RCV to choose whether or not to deal with positions for multi-member boards or councils as separate offices.
- Creates an RCV work group to aid the Secretary of State in adopting rules for RCV elections.

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### HOUSE COMMITTEE ON STATE GOVERNMENT & TRIBAL RELATIONS

**Majority Report:** Do pass. Signed by 5 members: Representatives Gregerson, Chair; Pellicciotti, Vice Chair; Appleton, Dolan and Hudgins.

**Minority Report:** Without recommendation. Signed by 3 members: Representatives Walsh, Ranking Minority Member; Mosbrucker and Smith.

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.*

**Minority Report:** Do not pass. Signed by 1 member: Representative Goehner, Assistant Ranking Minority Member.

**Staff:** Jason Zolle (786-7124).

**Background:**

Each county in Washington has a canvassing board comprised of the chair of the county legislative body, the county auditor, and the county prosecuting attorney. For each election, the canvassing board is responsible for examining ballots and tabulating votes. The county auditor then produces election returns that show vote totals cumulatively and broken down by precinct. The auditor delivers the returns to the canvassing board for verification and certification. The county canvassing board may not delegate its responsibility of certifying election results. Failure to certify the results, if they can be ascertained with reasonable certainty, is a class C felony. The canvassing board's certification must be immediately sent to the Secretary of State (Secretary) along with an abstract showing the votes cast.

In elections for statewide office, United States Congress, and offices in legislative and judicial districts that include parts of more than one county, the Secretary then canvasses and certifies the returns. The Secretary's certification is sent to the Governor and the Legislature.

For primary elections, Washington uses a top-two primary system in which all candidates are listed on the same primary ballot and voters may choose any candidate. The name of the candidate who receives the greatest number of votes in the primary appears first on the general election ballot, and the name of the candidate who receives the next greatest number of votes appears second. For offices in which there is more than one position with the same name, district number, or title, the positions are dealt with as separate offices to which candidates are elected in single-winner contests.

With one exception, state law does not require any particular method for canvassing boards or the Secretary to determine which candidate should be certified as the winner after a general election. In current practice, the winners of single-member offices in all Washington jurisdictions are determined using the plurality system in which voters select one candidate and the candidate who receives the most votes is declared the winner. (If there is a tie, the winner is chosen by lot.) In the 2008 and 2009 elections, Pierce County instead used a method called ranked choice voting (RCV) to determine the winner of its county-level offices.

(It appears that the only time that plurality voting is required by state law is when a void in candidacy occurs after the regular filing period and deadline to withdraw as a candidate but before the primary. In that situation, the filing period is reopened for three days, and the candidate who receives the plurality of votes for that office at the next general election is elected.)

Ranked choice voting is a method of voting in which voters may rank multiple candidates in order of preference. For single-winner elections, votes are tabulated using instant runoff voting. In this method, after voters' first-choice votes are tabulated, the candidate with the lowest number of votes is eliminated, and votes for that candidate are transferred to the next-

ranked candidate on those ballots. Votes are retallied, and this process continues until one candidate reaches the threshold necessary to be declared the winner. For elections for multiple-member offices, votes are tabulated using the single transferable vote method. In this method, the winning threshold is calculated based on the number of seats to be filled and the number of votes cast. Ballots are counted in rounds, and votes are transferred to next-ranked candidates from candidates with the fewest votes, who are eliminated, as well as candidates who have already surpassed the threshold to win.

Municipalities in seven states—California, Colorado, Maine, Maryland, Massachusetts, Minnesota, and New Mexico—have used RCV in municipal elections. One state, Maine, has used RCV in statewide and federal elections. Municipalities in Florida, Michigan, Oregon, Tennessee, and Utah have adopted RCV for future elections.

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### **Summary of Bill:**

Counties, cities, towns, school districts, fire districts, and port districts ("eligible jurisdictions") that have voters in only one county may choose to use RCV for their elections. An eligible jurisdiction that has voters in more than one county may choose to use RCV if another eligible jurisdiction that lies entirely within at least two counties of the original district uses RCV, or if RCV is ordered to remedy a violation of the Washington Voting Rights Act. An eligible jurisdiction that chooses to adopt RCV need not use it for every office in an election.

Certain requirements for RCV ballot design and vote tabulation are established.

Eligible jurisdictions that adopt RCV must either hold a primary using RCV to winnow the list to five candidates or eliminate the primary altogether. No primary may be held if fewer than five candidates have filed for office.

For offices in which there is more than one position with the same name, district number, or title, an eligible jurisdiction using RCV can choose whether the positions will be dealt with as separate offices. If dealt with as separate offices, RCV is conducted using instant runoff voting. If dealt with as a multi-member office, RCV is conducted using the single transferable vote method.

An eligible jurisdiction that adopts RCV must implement it within two years following its adoption, although no earlier than 2022.

An RCV work group is established. The work group consists of a member from the Office of the Secretary of State, a member from the Washington State Association of County Auditors, and a member from an organization with expertise in RCV. The Secretary is required to consult with the work group when adopting rules to help administer and tabulate votes in RCV elections.

**Appropriation:** None.

**Fiscal Note:** Requested on February 12, 2019.

**Effective Date:** The bill takes effect 90 days after adjournment of the session in which the bill is passed.

**Staff Summary of Public Testimony:**

(In support) Ranked choice voting is the path to a more reflective democracy. It has been tested, and more women and more people of color win. Using RCV also removes political polarization. There is less negative campaigning, and it keeps money out of politics because it is more difficult to figure out how to effectively spend money when voters rank their choices. People enjoy learning about alternative voting methods, whether it be students choosing pizza toppings or families choosing favorite meals. There is less voter confusion than people think. In Maine, RCV was overwhelmingly supported by voters, and then after it was used even more wanted it. Over 300 elections using RCV have taken place in the last 20 years. This bill does not mandate anything, but it gives people the option to try something. The state should not force any method on a citizenry that does not want it, whether it's plurality voting or RCV.

(Opposed) There is a risk that this could damage elections. There are enormous costs associated with RCV. It is rarely used without lawsuits. Ranked choice voting leads to voter confusion and a lack of confidence in the results. Auditors can support new balloting methods, but there must be time to get certified technology, and vendors cannot provide that within two years. It would be convoluted to administer an election in which various jurisdictions choose to opt in or opt out. Smaller jurisdictions would determine how the entire county has to spend its funds. Elections should be uniform across the state. Pierce County tried RCV in 2008; it was confusing and resulted in an elected official who was later recalled. Voters rejected it at the next election.

(Other) Voters should make the decision on how they want to vote. If the voters choose it, they should be able to use it. But it is difficult to have all jurisdictions within a county to have different options. It should be "take it or leave it" on a county-by-county basis.

**Persons Testifying:** (In support) Representative Gregerson, prime sponsor; Kathy Sakahara, League of Women Voters of Washington; Colin Cole, Lisa Ayrault, and Stephen Ladd, FairVote Washington; Cindy Black and David Bangs, Fix Democracy First; Data Logan; Maithili Joshi; Brett Mullin; Jason Padvorac; and Timothy Kitchen.

(Other) Julie Wise, King County Elections.

(Opposed) Jay Jennings, Office of the Secretary of State; Skip Moore and Diana Bradrick, Washington State Association of County Auditors; and Sharon Hanek.

**Persons Signed In To Testify But Not Testifying:** None.