

SENATE BILL REPORT

SB 5584

As Reported by Senate Committee On:
State Government & Elections, January 26, 2022

Title: An act relating to increasing representation and voter participation in local elections.

Brief Description: Increasing representation and voter participation in local elections.

Sponsors: Senators Trudeau, Nobles, Das, Dhingra, Frockt, Kuderer, Liias, Lovelett, Nguyen, Pedersen, Randall, Stanford and Wilson, C..

Brief History:

Committee Activity: State Government & Elections: 1/19/22, 1/26/22 [DPS-WM, DNP].

Brief Summary of First Substitute Bill

- Permits the use of ranked choice voting (RCV) in elections for offices in counties, cities, towns, school districts, fire districts, and port districts, and establishes certain requirements for RCV ballot design and vote tabulation.
- Establishes an RCV work group.
- Establishes a grant program administered by the Secretary of State, subject to appropriation, to assist local governments with the implementation of RCV or making changes to electoral systems in response to a notice filed under the Washington Voting Rights Act.

SENATE COMMITTEE ON STATE GOVERNMENT & ELECTIONS

Majority Report: That Substitute Senate Bill No. 5584 be substituted therefor, and the substitute bill do pass and be referred to Committee on Ways & Means.

Signed by Senators Hunt, Chair; Kuderer, Vice Chair; Hasegawa.

Minority Report: Do not pass.

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

Signed by Senators Wilson, J., Ranking Member; Hawkins.

Staff: Samuel Brown (786-7470)

Background: Ranked Choice Voting. In ranked choice voting (RCV), voters may rank multiple candidates in order of preference rather than only selecting a single candidate, as is current practice for all elections in Washington. Several states, including California, Colorado, Maine, Maryland, Massachusetts, Minnesota, New Mexico, New York, and Virginia have authorized the use of RCV in local elections. Maine has used RCV in statewide and federal elections, while Alaska voters approved a ballot measure in 2020 that will require use of RCV in future state and federal elections.

One method used for RCV is the instant runoff method.

Instant Runoff Method. In the instant runoff method, used for elections with a single winner, 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 re-tallied, and this process continues until one candidate reaches the threshold necessary to be declared the winner.

Washington Voting Rights Act. A county, city, town, school district, fire protection district, port district, and public utility district (political subdivision) violates the Washington Voting Rights Act (WVRA) when elections exhibit polarized voting and where there is a significant risk members of a protected class do not have an equal opportunity to elect candidates of choice as a result of dilution or abridgement of their rights. Any voter in an affected political subdivision may challenge the electoral system. If the political subdivision does not adopt a remedy to the alleged violation within 90 days, it is subject to a lawsuit.

Political subdivisions may take corrective action to change election systems in order to remedy a potential violation of WVRA, including through implementation of a district-based election system. The remedy must be certified by a court as compliant with WVRA and prompted by a plausible violation. If a violation is found, the court may order appropriate remedies and attorneys' fees and costs to a prevailing plaintiff.

Summary of Bill (First Substitute): Ranked Choice Voting. Counties, cities, towns, school districts, fire districts, and port districts (eligible jurisdictions) may use ranked choice voting (RCV) for elections to their governing bodies with at least three candidates. Eligible jurisdictions with voters in multiple counties may use RCV if:

- another eligible jurisdiction that lies entirely within multiple counties of that eligible jurisdiction uses RCV; or
- RCV is ordered to remedy a violation of WVRA.

RCV must be conducted using the instant runoff method. Requirements for RCV ballot

design and vote tabulation are established, including that RCV ballots must allow voters to rank at least five candidates per office in order of preference. A jurisdiction adopting RCV is not required to use it for every office in an election. RCV must be implemented within two years following its adoption by the jurisdiction, although no earlier than 2025.

Primary Elections. No primary may be held for multiple-winner races using RCV or if five or fewer candidates have filed for office in a particular single-winner race. If a primary election is held for a single-winner race, the RCV method must winnow the list to five candidates for the general election.

Ranked Choice Voting Work Group. An RCV work group is established, consisting of a member from the Office of the Secretary of State (Secretary), a member from the Washington State Association of County Auditors, and a member from an organization with expertise in RCV. The Secretary must consult with the work group when adopting rules to help administer and tabulate votes in RCV elections.

Grant Program. Subject to appropriation, the Secretary may provide grants to local governments to implement RCV or make changes to their electoral system in response to a notice filed under the WVRA.

EFFECT OF CHANGES MADE BY STATE GOVERNMENT & ELECTIONS COMMITTEE (First Substitute):

Jurisdictions may not use the single transferable vote method. Jurisdictions may not choose to conduct multiple-winner elections.

Appropriation: None.

Fiscal Note: Available.

Creates Committee/Commission/Task Force that includes Legislative members: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony on Original Bill: *The committee recommended a different version of the bill than what was heard.* PRO: Empowering localities with tools to strengthen our democracy and make it more responsive is very important. This will lead to better representation for marginalized communities, communities of color, and rural voters in jurisdictions with large cities. It will ensure majority support for candidates and positive campaigning. Some counties are trying to move in this direction, and it will provide support and education for those communities. This will increase young voter turnout by encouraging candidates with similar beliefs and experiences. Third party candidates will be more viable. Auditors tell us they are working with vendors to make sure systems can support RCV. Voters in Utah were skeptical of RCV at first, but generally

liked it after using it. Localities should have a chance to try improved systems, and this will help us set statewide standards. This will encourage candidates who might be reluctant to enter a race and split votes. The local option here would increase transparency and participation. This system will give voters more options and first-time and young voters can be educated on RCV. Cities with RCV have increased youth turnout and engagement. This will provide greater clarity to leaders for what voters want.

CON: RCV leads to voter confusion and disenfranchisement. Pierce County voters using RCV in 2009 didn't know what to do with two ballots. Voters will be confused when results aren't ready election night. California has had negative experiences with RCV—Oakland's mayor didn't have the most first-place votes on RCV ballots. RCV hasn't been used in a state like Washington with mail-in voting. Candidates will have to wait up to three weeks after election day to learn the winner. This requires a complicated algorithm that might not always pick the actual winner. This dilutes votes and will undermine election integrity. Winners could receive less than a majority of all votes cast. This creates one-person-one vote problems. Subtle voter fraud can foul up the RCV system. This seems complicated —ballots need to be easy to read and tally to reinforce voter confidence.

Persons Testifying: PRO: Senator Yasmin Trudeau, Prime Sponsor; Edgar Espino, Associated Students of Central Washington University (ASCWU), Washington Student Association (WSA); Shae Dolan, LYAC; Ty Stober, City of Vancouver; Stan Lockhart; Kamau Chege, Washington Community Alliance; Cassandra Bogdan Slemmer; Jim Cooper, City of Olympia; Landis Hanson, Associated Students of Central Washington University; Karen Austin.

CON: Sharon Hanek; Peggy Shashy; Cemal Richards; Val Mullen, Citizen; George Forman; Steven Duenkel; David Tegeler; James Hodgson.

Persons Signed In To Testify But Not Testifying: No one.