



— LEGAL POLICY FOCUS —

Ranked Choice Voting

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EXECUTIVE SUMMARY

- In most elections, a voter casts a single ballot for the candidate of her choice.
- Ranked Choice Voting (RCV), sometimes referred to as instant run-off voting, is an election system where voters rank candidates in order of preference, rather than simply mark their ballots for one person.
- Under RCV, if no candidate receives a majority of first place votes, election officials conduct a series of closed-door run-offs by eliminating last place finishers and redistributing their votes to the next ranked candidates.
- Frequently hailed as a way to increase voter choice, RCV is, in fact, a dangerously complex process that threatens to distort election outcomes and requires a high level of voter sophistication.
- In a time when we want to encourage voter participation and confidence, we must reject risky schemes such as RCV that make voting more complicated, less accessible, and less transparent.

What You Should Know

Ranked Choice Voting (RCV), sometimes referred to as instant run-off voting, is an election system where voters rank candidates in order of preference. RCV introduces a complex vote tabulation system that lacks transparency and often leads to bizarre election outcomes.

Why You Should Care

- **Ranked Choice Voting may be coming to a jurisdiction near you.** RCV is currently used by at least 19 local jurisdictions, including New York City and San Francisco. Maine adopted RCV statewide in 2016. In 2020, Alaska became the second state to adopt RCV for all of its elections.
- **Ranked Choice Voting creates more problems than it solves.** Although RCV purports to give voters more choice, it requires a degree of voter sophistication and strategic decision-making that causes voter confusion and can result in over-votes and ballot disqualifications that reduce voter participation.
- **Ranked Choice Voting undermines democratic principles.** RCV violates the principle of “one-person, one-vote” by allowing some voters to effectively cast more than one ballot while excluding other voters whose ballots were exhausted prior to the ultimate run-off.

How Does RCV Work?

In most elections, a voter casts a single ballot for the candidate she likes most. With RCV, the voter ranks candidates in order of preference, rather than selecting just one person.

With RCV, if one candidate receives more than 50 percent of first place votes, the election is over, and the candidate with the most votes wins. If, however, no candidate receives a majority, election officials then conduct a series of closed-door instant run-offs. They do this by eliminating the candidate with the fewest first place votes and redistributing those votes to the second choices on those ballots. They continue to do this (eliminating the last place finisher and redistributing his or her votes) until they have created a faux majority for a single candidate.

To Rank Or Not To Rank?

Voters are not required to rank all of the candidates in a ranked choice election, and often they do not—either because they do not like some candidates enough to rank them at all or because they do not have enough information about some candidates to know

whether they prefer them to others in the race. This makes sense. But a voter who does not rank all candidates risks having her ballot *exhausted*, and discarded, foreclosing any opportunity to choose between the ultimate finalists.¹

Let's say, for example, that seven candidates are running for City Council. Voter 1 ranks candidate A first and candidate B second but does not include candidates C, D, or E in her ranking because she affirmatively dislikes all three. If, however, A and B were to be eliminated in the early rounds, Voter 1 might want to participate in the run-off between C, D, and E in order to support the least objectionable candidate out of the remaining options. With RCV, however, Voter 1 will not have this opportunity, as her ballot will have been exhausted, and thus thrown out, prior to the ultimate run-off.

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Unlike regular run-off elections, where voters have an opportunity to go back to the polls and choose between two or three finalists after low-performing candidates have been eliminated, RCV elections ask voters to anticipate which candidates will make it to the final round and to rank all candidates accordingly in order to guarantee that their vote is counted in the final tabulation.

Ballot Exhaustion and Faux Majorities

Although proponents of RCV claim that it eliminates the possibility of plurality winners and builds true majorities, this often is not the case.

- In a 2010 election for a seat on the **San Francisco Board of Supervisors**, a winner was declared after multiple rounds of counting with a faux-majority of 4,321 votes. By that time, however, election officials had discarded 9,608 ballots due to exhaustion. *In other words, twice as many voters supported other candidates than supported the ultimate winner.*
- In a 2018 four-way **Maine congressional race**, Republican Rep. Bruce Poliquin won a plurality of first place votes: 134,184 out of 289,624. Poliquin received over two thousand more votes than the second place finisher, Democrat Jared Golden,

¹ Ballot exhaustion is not uncommon. In fact, studies of various RCV elections have found **exhaustion rates** ranging from 9.6 percent to 27.1 percent. The more candidates that a voter chooses not to rank, the greater the chance that her ballot will not be counted in the final tabulation.

who received 132,013 first place votes. Nevertheless, under RCV, the Maine Secretary of State conducted closed-door run-offs by redistributing the votes of the two third-party bottom finishers, and discarding 8,253 ballots that did not include a ranking for either of the two finalists, Poliquin or Golden. After the redistribution and exhaustion process was complete, Golden had 142,440 votes to Poliquin's 138,931—a majority (50.62 percent) of the ballots considered in the closed-door run-off, but still *less than 50 percent of all votes*.

Where Has RCV Been Tried?

At least 19 local jurisdictions currently use RCV (San Francisco has used Ranked Choice Voting since 2004; **New York City** approved an RCV measure in 2019).

Washington, D.C., is likely to consider an RCV measure next year.

At least four localities (Worcester, Massachusetts; Burlington, Vermont; Aspen, Colorado; and Ann Arbor, Michigan) implemented ranked choice systems but later repealed them after the system's disadvantages became apparent.

Likewise, the state of North Carolina in 2006 adopted RCV for elections for judicial vacancies but repealed the measure in 2013.

In 2016, Maine became the first state to adopt the system for all elections, including elections for president. In **November 2020**, RCV was on the ballot in both Alaska, where it passed, and Massachusetts, where it failed. RCV proponents are pressing forward with plans to promote the system elsewhere around the country.

Arguments Against Ranked Choice Voting

1. Ranked Choice Voting encourages under-informed choices. RCV requires voters to gather lots of information about multiple candidates. While, ideally, voters will make an effort to educate themselves about all of the candidates in a race, the reality is that many voters do not have time or desire to fully investigate multiple candidates. Voters may know, for example, that they *like* candidate A and *dislike* candidate E. But they frequently know little, if anything at all, about candidates B, C, and D. Yet, with a ranked choice system, voters who do not rank all candidates risk having their ballots exhausted and discarded. This incentivizes ranking even those candidates about whom a voter knows next to nothing.



Some voters might not want to rank all the candidates in a multi-person race. Yet, failing to rank every candidate creates a risk that the voter's ballot will be exhausted and discarded.



2. Ranked Choice Voting reduces voter participation because it is confusing and can lead to ballot disqualification. Although ranking candidates sounds easy enough, RCV ballots can be confusing to some voters. Usually, they require voters to fill in the correct bubble in the correct column, rather than simply pick one candidate or list the candidates in order of preference. This can be particularly confusing for senior citizens, new voters, and English language learners. The photo below shows the ballot used by Maine in its 2018 congressional election for District 2. The example shows an incorrect “over-vote” where the voter marked two candidates as his or her first choice. This ballot would have been disqualified and thrown out.

| Rep. to Congress District 2 | 1st Choice | 2nd Choice | 3rd Choice | 4th Choice | 5th Choice |
|--|----------------------------------|-----------------------|-----------------------|-----------------------|-----------------------|
| Bond, Tiffany L. Portland Independent | <input checked="" type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| Golden, Jared F. Lewiston Democratic | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| Hoar, William R.S. Southwest Harbor Independent | <input checked="" type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| Poliquin, Bruce Oakland Republican | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| Write-in | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |

Source: Maine Secretary of State, The Maine Heritage Policy Center

3. Ranked Choice Voting can lead to bizarre outcomes where a person who was the first choice of very few voters can still win. Suppose that, in the Democratic primary for an open congressional seat, candidate X receives 40% of the vote; candidate Y receives 20% of the vote; candidate Z receives 15% of the vote; and a handful of other candidates split the remaining 25% of the vote. If candidate Z receives a large number of second, third, fourth, and even fifth place rankings from voters who chose candidates that finished at the bottom, Z might, through the redistribution process, end up with more votes than Y. Thus, third-place Z would eliminate second place Y, requiring that Y’s votes be redistributed between Z and X. If enough Y voters prefer candidate Z to candidate X, Z could win the nomination—even though 85 percent of the voters chose somebody else as their first pick, and even though Z might not have been even the second or third-place choice of a majority of Democratic primary voters.

4. Ranked Choice Voting requires strategic voting. The way the RCV distribution process works, it is possible that by ranking someone second or third, a voter is actually knocking out her first choice pick (see above). Thus, voters who want to maximize the power of their votes in an RCV system must consider not just the

order of her preferences *but also which of all the candidates are likely to beat other candidates*. Voters shouldn't need a degree in game theory to cast an effective ballot.

5. Ranked Choice Voting undermines democratic principles. Voters whose ballots are exhausted are not given an opportunity to come back and participate in the final contest, as they would in an actual run-off election. This gives some voters more power than others and violates the time honored principle of “one-person, one-vote.”

6. Ranked Choice Voting lacks transparency.

Under our current system, votes are tabulated at the precinct level. If there are problems that suggest the need for a recount, those recounts are done only in the precincts where problems occurred, under the watchful eye of observers who, presumably, know how to count. Under RCV, second round tabulations are complicated and must be performed at a statewide or district level, either by computer algorithm or by painstaking hand redistributions, making it more difficult for public watchdogs to ensure legitimacy.



Because of ballot exhaustion, a candidate can win an RCV election without a majority of support—even after multiple rounds of vote redistribution.



7. Ranked Choice Voting shifts negative campaigning to Super PACs. Proponents of RCV claim that it reduces negative campaigning by creating a system where candidates seek second, third, or fourth place votes from their opponents' supporters. While RCV may, indeed, discourage candidates from attacking their opponents, it opens the door for others to do the dirty work. In the 2018 Maine congressional election, for example, negative Super PAC ads nearly equaled the combined amount of negative Super PAC ads from the previous two election cycles combined.

Conclusion

In 2016, California's Democratic Governor Jerry Brown vetoed state-wide RCV legislation. “Ranked-choice voting is overly complicated and confusing,” Brown noted, and “deprives voters of [a] genuinely informed choice.”

Governor Brown was right. No voting system is perfect. Our current election system may have flaws, but RCV creates new problems. In a time when we want to encourage voter participation and confidence, we must reject risky schemes like RCV that make voting more complicated, less accessible, and less transparent.