

**RANKED CHOICE VOTING ISSUES GROUP
LEGISLATIVE AND RULES COMMITTEE REPORT
JANUARY 28, 2008**

The Legislative and Rules Committee of the Ranked Choice Voting Issues Group has completed its task of developing proposed Ranked Choice Voting (“RCV”) rules and procedures and crafting draft legislation to implement those rules. Participants in the committee were:

- Beth Fraser (Co-Chair), Office of the MN Secretary of State
- Aaron Street (Co-Chair), Institute for Law and Politics, U of M Law School
- Laura Blubaugh, Minnesota Senate Staff
- Peter Brickwedde, Minnesota Senate Staff
- Dani Connors-Smith, City of Minneapolis Elections
- Jim Genellie, City of Hopkins
- Robin Garwood, Minneapolis Ward 2 City Council Aide
- Matt Gehring, Minnesota House of Representatives Research Staff
- Ben Hecker, Minneapolis Ward 13 City Council Aide
- Fran Hesch, City of Hopkins Charter Commission
- Representative Bill Hilty
- Andrea Jenkins, Minneapolis Ward 8 City Council Aide
- Bruce Kennedy, Roseville attorney
- Dag Knudsen, FairVote Minnesota/Resident of Lake City
- Andy Lokken, Office of the MN Secretary of State
- Senator John Marty
- Representative Sandra Masin
- Jeanne Massey, FairVote Minnesota
- Representative Neil Peterson
- Gary Poser, Office of the MN Secretary of State
- Gene Ranieri, City of Minneapolis Government Relations
- Cindy Reichert, City of Minneapolis Elections
- Scott Simmons, Association of Minnesota Counties
- Representative Steve Simon
- Rebekah Smith, Minnesota House of Representatives Staff
- David Weinlick, FairVote Minnesota/Minnesota DFL Party
- Josh Winters, Minnesota Council of Nonprofits

The Legislative and Rules Committee met nine times from October 15th through January 28th for a total of about 20 hours. The committee’s purpose was to develop proposed rules and procedures for the conduct of municipal RCV elections and to draft a legislative proposal for the adoption of those rules.

OUTLINE OF PROCEDURAL ISSUES IN RCV ELECTIONS

The committee used the statutory review outline of the Technical Advisory Committee (“TAC”) as its framework for developing RCV election rules and procedures. The topics outlined were:

1. Counting Procedures
 - a. Definitions
 - b. Threshold
2. Ballot Format
 - a. Instructions
 - b. Ballot specifications in combined elections
3. Counting Votes
 - a. Write-ins
 - b. Resolutions of ties
 - c. RCV count center
 - d. Hand counts
4. Determining Voter Intent
 - a. Elimination and advancement
 - b. Overvotes and undervotes
5. Recounts
 - a. Threshold
 - b. Recount procedure
6. Results Reporting
 - a. Precinct summaries
 - b. RCV count center summaries
 - c. Release of partial results
 - d. Form of abstract
7. Voting Systems
 - a. Definitions
 - b. System specifications
 - c. Preliminary testing
 - d. Zero tape specifications
 - e. Post-election audit
8. Education
 - a. Administrators
 - b. Judges
 - c. Public

DEVELOPMENT OF RCV ELECTION RULES AND PROCEDURES

Following the above outline, the committee discussed the issues raised by each topic. The committee consulted the procedures adopted by other jurisdictions using RCV, as well as Minnesota election law. The committee made determinations in areas where different potential procedures for RCV elections exist.

Of particular note were decisions made regarding the following items, on which the group was not able to come to consensus. A majority supported the positions reflected in the draft legislation, but in each case, some members of the committee have strong reservations about the decision.

1. The Draft Statute Will Only Apply to Home-Rule Charter Jurisdictions.

The committee decided that as a first phase of pursuing RCV elections, the statute would only apply to Charter jurisdictions. Though some committee members advocated expanding

application to statutory cities, the committee determined that this would best be left to future efforts.

2. The Draft Statute Will Not Include “Elimination and Advancement” Procedures.

Elimination and advancement rules tell election officials to “advance” lower ranked candidates when a voter skips a ranking. For instance, if a voter ranked a first and third choice, but no second choice, elimination and advancement rules treat the third-ranked candidate as though it were ranked second. These rules are in place in most jurisdictions conducting RCV elections, in order to reduce the number of exhausted ballots caused by voter error. The committee decided not to adopt elimination and advancement rules because such rules presume to understand a voter’s intent, without any affirmative information that the voter intended their third ranking to be treated as their second choice. In place of elimination and advancement rules, the committee decided to require strict voter error notification standards, so voters would be informed of skipped rankings before casting their ballots.

3. The Draft Statute Will Require All New Voting Systems in Minnesota Be RCV-Compatible.

The committee decided to include a provision that all new voting systems purchased in the State of Minnesota must be RCV-compatible. This way the technology of the voting equipment will not pose a barrier to jurisdictions that want to adopt RCV.

4. The Draft Statute Will Require That All New RCV Voting Systems Notify Voters of Skipped Rankings and Duplicate Rankings, But Exempts Existing Systems.

The committee decided that without elimination and advancement rules, strict voter error notification rules are required. These rules require that new RCV voting systems must be able to notify voters of ballots with overvotes, skipped rankings and duplicate rankings by rejecting ballots with these errors. Voters then have the opportunity to correct their errors, or to override the error notification and have their ballot accepted in spite of the errors. The committee thought these strict error notification rules are needed to reduce the number of defective and exhausted ballots. However, current voting systems are not capable of this level of voter error notification and requiring these notifications might delay the implementation of RCV until new voting equipment has been purchased. As a result, the committee decided to only require error notification of new voting systems and to exempt current voting systems from any new error notification rules.

5. The Draft Statute Will Allow Jurisdictions to Use Either a Single Transferable Vote Method for Multiple-Seat Elections, or Another Method After Application to and Approval by the Secretary of State.

The committee adopted standard “Single Transferable Vote” rules as the default method of conducting multiple-seat RCV elections. However, because some jurisdictions advocate for retaining the ability to vote for more than one candidate in a multiple-seat election, the committee decided to allow for the creation of alternative multiple-seat RCV counting methods pending application to and approval by the Secretary of State.

6. The Draft Statute Will Require Post-Election Review Audits for All RCV Elections.

The committee decided to require post-election review audits for all jurisdictions conducting RCV elections. Currently, post-election review audits are not required for municipal or county elections. However, because RCV counting methods are new to Minnesota and in order to give the public assurances of the system’s validity, the committee decided to require audits for all RCV elections.

DRAFT LEGISLATIVE PROPOSAL

Members Matt Gehring and Robin Garwood assisted in writing a draft legislative package to implement the RCV election rules and procedures developed by the committee. The committee spent three meetings editing and refining the final draft legislative proposal.

NEXT STEPS

With the creation of a draft legislative proposal, the work of the Legislative and Rules Committee is complete.

Further work on developing details for implementation of RCV is still needed in the areas of ballot design, education, and funding sources.

Ranked-Choice Voting Issues Group
Overview of Legislative Proposal
February 1, 2008

Section 1 (Lines 1.8-1.14): Applicability

This section establishes the scope of the ranked-choice voting provisions in law. All elections held using ranked-choice voting must follow the procedures and method established here (with an exception for the multiple-seat counting method). This section also clarifies that all other provisions of Minnesota law continue to apply to RCV elections – so, if the law is silent here, the election (or other) laws codified elsewhere will govern.

Section 2 (1.15-3.2): Definitions

This section establishes definitions for terms used throughout the RCV provisions. Only terms or phrases that actually appear elsewhere in the proposal are defined.

Section 3 (3.3-3.13): Implementation

This section establishes the procedures a home rule charter city or county must use to adopt or end the use of ranked-choice voting. The proposal is limited to charter jurisdictions only.

Section 4 (3.14-4.8): Ballots

This section establishes the required ballot format for RCV elections (in addition to the other requirements for ballot format and structure that already exist in law). RCV ballots must allow a person to rank at least three candidates, as well as to write-in candidates. This section also specifies instructions that must appear on the ballot.

Section 5 (4.9-4.13): Ranked-Choice Voting Tabulation Center

This section requires the chief election official to designate a ranked-choice voting tabulation center for purposes of vote tabulation.

Section 6 (4.14-5.20): Single-Seat Elections

This section prescribes the method for counting votes in a single-seat election.

Section 7 (5.21-7.10): Multiple-Seat Elections

This section prescribes the method for counting votes in a multiple-seat election. An allowance is also included for a jurisdiction to use a different method of counting votes upon approval of the secretary of state.

Section 8 (7.11-7.15): Write-In Procedures

This section requires that write-in candidates that are not defeated through batch elimination be counted and entered by the election administrator.

Section 9 (7.16-7.28): Reporting Results

This section establishes the requirements for reporting RCV results, including the contents of the precinct summary statements and the election abstract.

Section 10 (7.29-8.2): Recounts

This section allows a candidate defeated in the final round of counting to request a recount according to current law. A candidate defeated in an earlier round may request a recount at the candidate's own expense.

Section 11 (8.3-8.13): Notice of Filing Dates

This section requires that a notice of the filing period for candidates include an indication of the method of election to be used.

Section 12 (8.14-8.26): Electronic Voting System Purchasing

This section establishes new requirements for equipment, when new equipment is being purchased to replace a voting system.

Section 13 (8.27-9.17): Testing of Voting Systems

This section amends the existing law governing the testing of equipment to provide for testing of the equipment's RCV capability before an RCV election.

Section 14 (9.18-11.35): Postelection Audits

This section establishes the procedure for conducting an audit following an RCV election. All RCV elections must be audited. The procedure mirrors that of the existing law, with some modifications to make it work in the RCV context.

Section 15 (12.1-12.3): Rules

This section permits the secretary of state to develop rules where necessary to facilitate implementation of the new laws.