

2005-06 SESSION

COMMITTEE HEARING RECORDS

Assembly Committee on Campaigns & Elections (AC-CE)

Sample:

Record of Comm. Proceedings ... RCP

- 05hrAC-EdR_RCP_pt01a
- 05hrAC-EdR_RCP_pt01b
- 05hrAC-EdR_RCP_pt02

➤ Appointments ... Appt

➤ **

➤ Clearinghouse Rules ... CRule

➤ **

➤ Committee Hearings ... CH

➤ **

➤ Committee Reports ... CR

➤ **

➤ Executive Sessions ... ES

➤ **

➤ Hearing Records ... HR

➤ **

➤ Miscellaneous ... Misc

➤ **05hr_AC-CE_Misc_pt18**

➤ Record of Comm. Proceedings ... RCP

➤ **



WISCONSIN LEGISLATIVE COUNCIL

*Terry C. Anderson, Director
Laura D. Rose, Deputy Director*

TO: REPRESENTATIVE STEPHEN FREESE

FROM: Robert J. Conlin, ^{RC} Senior Staff Attorney

RE: 2005 Assembly Bill 689, Relating to Preferential Voting

DATE: October 11, 2005

This memorandum describes 2005 Assembly Bill 689, relating to preferential voting. The bill was introduced by Representative Pocan and others and was cosponsored by Senators Miller and Hansen. The bill has been referred to the Assembly Committee on Campaigns and Elections, which has scheduled a public hearing on the bill for October 13, 2005.

Under the bill, preferential voting is a voting method in which electors are allowed to express and order their preferences for all candidates whose names appear on the ballot for the same office or seat. For purposes of a partisan primary, electors are allowed to express and order their preferences for all candidates whose names appear on the ballot of the party selected by the elector for the same office or seat.

The bill authorizes a local governmental unit (i.e., a county, city, village, town, or special purpose district) to adopt preferential voting as the method of voting and determining the results of all elections for offices to be filled in the local governmental unit. Only the policy-making body of the local governmental unit may exercise the option on behalf of the unit. The option may be exercised by ordinance, or by resolution if the policy-making body does not enact ordinances. The preferential voting decision may also be revoked in like manner. In order to use the preferential voting method in an election for the office of municipal judge for a joint municipal court, the policy-making body of each contracting municipality has to adopt preferential voting.

When preferential voting is to be employed, the bill provides that an elector may cast as many preferential votes for each office as there are candidates for the office whose names appear on the ballot. If more than one seat on a policy-making body is to be filled at large, an elector is entitled to cast one vote for each seat that is contested, multiplied by the number of candidates, and may cast as many preferential votes for the seats to be filled as there are candidates for those seats whose names appear on the ballot.

To indicate a preference, an elector marks his or her ballot with, or causes the voting machine to reflect, the elector's 1st choice, 2nd choice, 3rd choice, and subsequent choices, if any. The elector is not required to indicate a choice and need not indicate as many choices as the elector is eligible to indicate.

The bill provides that preferential voting may not be used for balloting within any ward or election district unless it is used for balloting within all wards and election districts in which that election is held. Additionally, preferential voting may not be used for any office of a local governmental unit to be filled at an election unless it is used for all of the offices of the local governmental unit to be filled at that election.

If a local governmental unit decides to use preferential voting at an election, each municipality having territory within the jurisdiction of that local governmental unit must use an electronic voting system at every polling place in the municipality.

Under the bill, whenever the policy-making body of a local governmental unit adopts or discontinues preferential voting to elect officers of the local governmental unit, the body must promptly notify, in writing, the municipal clerk of each other municipality that lies wholly or partially within the jurisdiction of the local governmental unit of its action. The notice must be provided no later than the 120th day preceding any election at which preferential voting is to be used, except that if any municipality that lies wholly or partially within that jurisdiction does not use an electronic voting system on the date of the body's determination to use preferential voting, the notice must be provided no later than nine months before any such election.

In elections at which preferential voting is used, if an elector casts no more than one vote for each office or seat for which the elector is entitled to vote, but does not indicate a preference, the elector's votes are to be counted as 1st-choice votes for the candidates receiving the elector's votes. If an elector indicates the same preference for more than one candidate for an office or seat in an election where those expressed preferences exceed the number of offices or seats to be filled, the elector's votes are invalid. If an elector indicates both a preference and no preference for candidates for an office or seat in an election where the elector's votes exceed the number of offices or seats to be filled, the elector's votes are invalid.

Under the bill, the Elections Board is required to prescribe a tally sheet for canvassing elections at which preferential voting is employed. The form must be used by inspectors during the canvass.

During the canvass, if any candidate receives a majority of the 1st-choice votes cast for an office or seat, the candidate is declared elected. If no candidate for an office or seat receives a majority of the 1st-choice votes cast, the 1st-choice votes received by the candidate or candidates who receive the least number of 1st-choice votes are to be excluded from the tally and the 2nd-choice votes cast by electors who voted for the excluded candidate or candidates are added to the 1st-choice votes received by the other candidates. The 3rd-choice votes cast for the excluded candidate or candidates are then added to the 2nd-choice votes received by the other candidates. (Additional choice votes, if any, are to be tallied in the same manner.) This process continues until one candidate receives a majority of the 1st-choice votes cast.

If an elector indicates a choice for a lesser preference without also indicating a choice for all greater preferences available to the elector for that office or seat, each lesser preference of the elector for

that office or seat is to be counted as a higher preference in the order that the elector's choices are indicated so that all of the preferences of the elector are cast in consecutive order.

If any candidate receives a majority of the 1st-choice votes cast and votes cast without indicating a preference for an office or seat, the candidate is declared elected. If no candidate for an office or seat receives a majority of the 1st-choice votes cast and votes cast without indicating a preference, the canvassers are required to exclude from the tally the 1st-choice votes received by the candidate who receives the least number of 1st-choice votes and repeat the above procedure until one candidate receives a majority of the 1st-choice votes cast and votes cast without indicating a preference for the office or seat.

If you have any questions, please feel free to contact me directly at the Legislative Council staff offices.

RJC:ksm:rv



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If you have any questions, please feel free to contact me directly at the Legislative Council staff offices.

RJC:ksm:rv

4825 Bayfield Terrace
Madison WI 53705
October 13, 2005

To: Members of the Assembly Committee on Campaigns and Elections
Re: Assembly bill 689, preferential voting

Instant runoff voting is not appropriate as a substitute for the way we conduct our non-partisan spring elections. We already have a structure for spring elections that fulfills the will of the voters, and allows a better examination of the candidates than IRV.

The backers of IRV claim that our current elections are sometimes won by candidate with a plurality, but less than majority. For our non-partisan elections, this is simply incorrect. In those races, two candidates are in the final field and the winner always has a majority.

If there are many candidates running for an office, it is difficult for the average voter to properly examine all the candidates. But the primary thins the field. After the primary, the average voter can do a good job of evaluating the two finalists.

Our partisan elections in the fall are different. Now candidates often get their party's nomination or win the office with less than a majority, because there can be several candidates in the partisan primary; or several parties on the November ballot. In this case, the arguments for IRV have validity.

Yet IRV does not always mean that the winner gets a majority. In San Francisco in 2004, one race had 22 candidates. Because of the technical limitations of the voting equipment, voters could only rank first, second, and third choices. If your three candidates finished near the bottom, your ballot was discarded early in the algorithm process. Using IRV, candidates were elected with less than a majority.

The bill makes IRV optional for municipalities. But they might select it for the wrong reasons. Saving dollars should be a consideration, but not the driving force for major decions about how we run our elections. Incumbents may push IRV because they might have an advantage in a crowded field. But in our existing system, when a challenger makes it through a primary, he gains credibility and gets equal standing to the incumbent for the April election.

I have respect for the sponsors and the speakers in favor of this. We need innovative proposals. But it should be changed to only cover our Fall partisan elections.

Sincerely,



Paul Malischke



210 N. Bassett St., Suite 215 / Madison, WI 53703 / 608 255-4260 / www.wisdc.org

Testimony before the Assembly Committee on Campaigns and Elections in Support of Assembly Bill 689 Relating to Use of Preferential Voting in Local Elections

Thursday, October 13, 2005

The Wisconsin Democracy Campaign appreciates this opportunity to testify in support of Assembly Bill 689, a proposal to allow for preferential voting in local nonpartisan elections. Giving local governments this option would enable them to become true laboratories of democracy if they choose. And giving voters the ability to rank candidates in order of preference would empower them and help reinvigorate our democracy in Wisconsin.

The Problem

We need to let the people decide. Just as campaign finance disparities and lopsided, gerrymandered districts serve to suppress competition and demoralize voters, so does the way ballots are cast. A vote should reflect a voter's true preference, yet our current system leaves many voters feeling trapped into voting for the lesser of two evils, fretting about casting a "wasted" vote or venting anger toward "spoiler" candidates. In the end, the democratic principle of majority rule is frustrated as winning candidates often are elected by a mere plurality of voters rather than by an actual majority. This breeds further voter disenchantment.

It need not be this way. Democratic countries like Australia, Great Britain and Ireland use preferential voting systems that more accurately reflect the will of the public. Several American communities use such systems for their local elections, and the Utah Republican Party uses preferential voting to nominate candidates for Congress. The system eliminates "wasted" votes and "spoiler" candidates, discourages negative campaigning, and saves taxpayer money all at the same time.

How it Works

Preferential or free-choice voting systems such as Instant Runoff Voting (IRV) ask voters to rank candidates in order of preference. Whenever there are three or more candidates for an office or seat to be filled at an election, voters are asked to rank the candidates in order of preference. In cases where there is no initial majority winner, a runoff recount can be conducted without a new election to determine which candidate is actually preferred by a majority of voters. Instead of just casting one vote for one candidate,

voters rank the candidates as their first choice, second choice, third choice and so on. If no candidate receives a majority of first-choice votes, the candidate with the fewest first-choice votes is eliminated. The second-choice votes from these ballots are then redistributed to the other candidates. The ballots are recounted, and candidates are eliminated in this fashion until a winner emerges with a majority of the vote.

Strengths of Preferential Voting

Preferential voting has several advantages over Wisconsin's current system of voting. It:

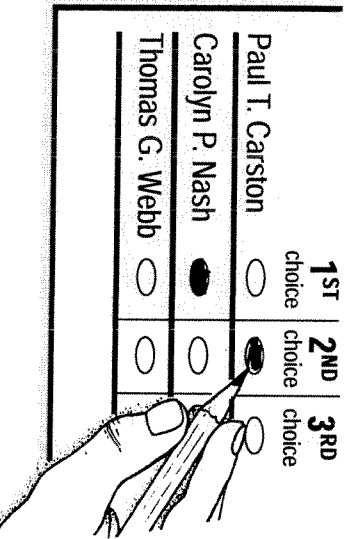
- **Ensures the winner has the support of the majority of voters.** Currently, candidates can be elected with less than 50 percent of the vote, leaving doubt as to whether they have a mandate for their policies.
- **Allows more candidates to get involved in races without being accused of being "spoilers."** Preferential voting not only gives voters more freedom to choose, it also eliminates the "wasted vote" dilemma many voters agonize over.
- **Discourages negative campaigning.** To win, candidates need to get some second and third place votes, as well as first place votes. They'll be less likely to attack their opponents if they need support from their opponents' voters.
- **Saves money.** Preferential voting eliminates the need for primary elections. Fewer elections, less cost to taxpayers.
- **Honors the independence of Wisconsin voters.** Currently, the large ranks of independent voters are not allowed to "cross over" in primary elections – that is, vote for one party's candidate for one office and another party's candidate in a different race – because Wisconsin does not have truly open primary elections. This limitation on a voter's freedom to choose does not exist with preferential voting.

Too many voters feel forced to hold their noses and vote for the lesser of evils at election time. That need not happen. Preferential voting has great potential to reinvigorate democracy, reduce voter cynicism and thereby boost sagging voter confidence in elections. Wisconsin should at the very least experiment with it. The Democracy Campaign supports AB 689 and believes that it is a vital step towards rebuilding democracy in Wisconsin.

How Instant Runoff Voting Works

Instant runoff voting (IRV) is a method of voting that determines a majority winner in a single election, no matter how many candidates are running. It combines a regular election and a runoff election between the top candidates into one election.

Each voter has the option of ranking candidates in order of choice (1, 2, 3, etc.). They select their favorite candidate as their first choice, and their runoff choices as their subsequent choices, in case their favorite candidate doesn't make the runoff.



If no candidate is the first choice of at least half of the voters, a runoff count is conducted. The counting of ballots simulates a series of runoff elections, eliminating the candidates from the bottom who have the least support. In each round, every voter's ballot counts as a single vote for his or her top-ranked candidate who is still in the running, as indicated on that voter's ballot. Candidates with the least support are eliminated until there are just two remaining. The finalist with the highest number of votes is elected by a majority.

The count can be simplified by immediately reducing the field to two candidates after the initial ballot count and determining a winner in the second round of counting.

The value of majority winners.

Runoffs seek to assure that in single-seat elections, the winning candidate has the support of the majority of voters, rather than a mere plurality. In a majority system, candidates must gain the support of more than 50% of voters, while a plurality system can reward extreme candidates who couldn't gain 50% support, but might win the most votes in a fractured field. Runoffs indeed can be valuable in determining the community consensus and protecting voters from unrepresentative leaders. But requiring two elections can undermine the majority principle due to lower voter turnout.

Why waste money on two elections?

By using **instant runoff voting**, the goal of majority winners can be achieved in just one election. By eliminating an unnecessary trip to the polls, IRV saves significant tax dollars, reduces candidates' need to raise money and maximizes voter turnout. If desired, it is even possible to fold primary elections into the general election.

The Center for Voting and Democracy is a non-partisan, non-profit educational organization that studies the American electoral process and the impact of proposed reforms on voter participation, representation and governance. The Center is supported by individuals and foundations, including the Ford Foundation, the Joyce Foundation and the Open Society Institute. Former Congressman John B. Anderson is its president.

The Center for Voting & Democracy

6930 Carroll Ave., Suite 610, Takoma Park, MD 20912
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Why not settle for plurality winners?

When three or more candidates are in a race, the majority of voters may split such that the plurality "winner" (the one with the most votes) is actually the candidate a majority of voters consider to be the worst choice. There is no need to suffer the "spoiler" problem in multi-candidate races, or settle for undemocratic winners, when a majority voting system such as instant runoff voting can be used.



Why is IRV better than two-election runoffs?

It saves both taxpayers and candidates money, and eliminates hassles for both voters and election administrators by having one election instead of two. Traditional runoffs also typically result in significantly fewer voters participating in one of the elections. A drop in turnout of over 50% is not uncommon. IRV maximizes voter participation. The countries with the highest voter turnout in the world use instant runoff voting.



Is IRV simple for voters to use?

Yes. Millions of voters have used this system for decades without problems. Mock elections in a large number of schools and senior citizen centers prove that people have no difficulty with rank-order voting, and most actually prefer it. An initial voter education campaign is recommended, but all evidence suggests that voter error will not increase and may even decrease.



What impact would IRV have on campaigns?

IRV eliminates the need for a second round of campaign fund-raising. Since second election runoff campaigns are so short, candidates with quick access to large contributors have an advantage. Also, experience in jurisdictions using instant runoff voting suggests it tends to reduce negative campaigning. Since candidates want to also win the second choice votes from voters who favor another candidate, mudslinging can backfire by alienating these voters. IRV elects candidates with both strong core support and also broad

appeal. IRV can avoid some of the extreme polarization that can occur in a traditional runoff between candidates who characterize their opponent as dishonorable.



Is instant runoff voting constitutional?

Yes. Because every voter gets one vote in each round of counting, American courts have consistently ruled that IRV complies with the one-person, one-vote mandate of the U.S. Supreme Court. Likewise, there are no federal laws that would prevent any state from adopting instant runoff voting for electing their congressional delegation or presidential electors.



Where has IRV been adopted?

IRV is used for government elections in several English-speaking countries, such as: Australia, Ireland and the U.K. In the U.S. instant runoff voting has been adopted in places such as: Louisiana (for overseas absentee ballots), the Utah Republican Party (for U.S. Congressional nominations at conventions), and the city of San Francisco for its most important offices. Many organizations and colleges use IRV, as it is recommended by Robert's Rules of Order (called "preferential voting"). Political scientists elect the president of the American Political Science Association using IRV.



Are current voting machines able to handle IRV?

This depends on the voting machine. Older punch-card and lever-style machines are incompatible. Ranked-choice elections have been administered on optical scan, and touchscreen equipment, as well as with hand-counted paper ballots. New Federal Elections Commission standards require voting machine vendors to disclose which of their machines can handle ranked ballots. Federal lawmakers are likely to make more than \$3 billion available for upgrading voting machines. Even jurisdictions with some older machines can implement IRV for a fraction of the cost of a new election, by simply modifying the ballot design, and treating the occasional IRV runoff count like a recount using existing recount procedures.

Typical two-election runoff	Instant runoff voting
<p>STEP # 1</p> <p>Voters go to the polls and mark their favorite candidate on their ballot.</p>	<p>STEP # 1</p> <p>Voters go to the polls and mark their favorite candidate on their ballot as their first choice. At the same time they can also indicate their runoff choices by ranking candidates in order of preference – 1, 2, 3.</p>
<p>STEP # 2</p> <p>If no candidate receives a majority, a second election is called.</p>	<p>STEP # 2</p> <p>If no candidate receives a majority, the ballots simply need to be retabulated.</p>
<p>STEP # 3</p> <p>Candidates resume fund raising and campaigning. New ballots must be quickly printed. Polling stations must be set up again. Typically some voters don't make two trips to the polls, resulting in lower turnout.</p>	<p>STEP # 3</p> <p>Skip step 3.</p>
<p>STEP # 4</p> <p>If your favorite candidate makes it into the runoff election, you mark a new ballot for your favorite candidate again. If your favorite has been eliminated, you mark your ballot for your next choice among the remaining candidates.</p>	<p>STEP # 4</p> <p>If your favorite candidate makes it into the runoff count, your original ballot counts for your favorite candidate again. If your favorite has been eliminated, your ballot counts for your next choice among the remaining candidates.</p>
<p>STEP # 5</p> <p>The candidate with the majority of the votes (of those voting in the second election) wins.</p>	<p>STEP # 5</p> <p>The candidate with the majority of the votes wins.</p>
<p>SUMMARY</p>	
<ul style="list-style-type: none"> ★ wastes tax money ★ extends campaign season ★ inconvenient for voters and election administrators ★ lower voter turnout 	<ul style="list-style-type: none"> ★ saves tax money ★ one election instead of two ★ more convenient for voters and election administrators ★ higher voter turnout