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The Case Against Ranked-Choice Voting

Key Points

- Ranked-choice voting (RCV) is a system that permits voters to rank candidates on their ballots. It is a deeply flawed system.
- RCV disenfranchises large numbers of voters through a phenomenon known as ballot exhaustion.
- It also invites political manipulation on a broad scale.
- RCV does not decrease political polarization and may, in fact, increase it.
- Like in Florida and Tennessee, policymakers should ban RCV in Texas.

Executive Summary

Proponents of ranked-choice voting contend that it is a pragmatic solution to America's election woes. In reality, it is a short-sighted system that tends to create more problems than it purports to solve. Common challenges associated with the implementation of ranked-choice voting schemes include but are not limited to disenfranchising voters and creating confusion and controversies. Policymakers in Texas should resist attempts to enact ranked-choice voting and explore ways to explicitly ban the practice statewide.

Conventional Election Systems

In Texas, most candidates for office, including those seeking to be state legislators and state executive officials, are elected by plurality vote in a single-winner contest. Under a plurality voting system, the sole winning candidate of the election is the person who receives the highest number of votes. Plurality voting is also sometimes referred to as a first-past-the-post or winner-take-all system.

Another common type of election system used in party primaries and by some smaller jurisdictions is a majority voting system. Under a majority voting system, a candidate must receive an outright majority of votes to be declared the winner. If no candidate meets this requirement, a second "runoff election" is held in which the pool of candidates is slimmed down to the two who received the most votes in the first election. The majority voting system is also sometimes called the two-round system for this reason.

Unusual Alternative: Ranked-Choice Voting

In contrast to conventional election systems, ranked-choice voting (RCV) is a system that permits voters to rank their preferred candidates on the ballot. If a candidate receives a majority of first-preference votes, then he or she is declared the winner. If no candidate earns a majority of first-preference votes, then the person with the least number of first-preference votes is eliminated. The first-preference votes for this candidate are eliminated, and the affected ballots have their second-preference vote elevated to first preference. The results are then calculated again, and if no candidate has still received a majority of first-preference votes, the cycle continues.

As this paper will elaborate, RCV offers no benefit over traditional American election systems and, in fact, is worse in several regards. Evidence suggests that:

- RCV disenfranchises large numbers of voters through a phenomenon known as ballot exhaustion.
- RCV creates confusion and enables controversies.

RCV Disenfranchises Voters

Ranked-choice voting systems can disenfranchise voters through a phenomenon known as ballot exhaustion, in which “ballots that do not include the two ultimate finalists are cast aside to manufacture a faux majority for the winner ... it is only a majority of the voters remaining in the final round, not a majority of all of the voters who actually cast votes in the elections” ([von Spakovsky & Adams, 2019, p. 4](#)). In other words, there may be scenarios in which the winning candidate does not secure a majority of overall votes but rather only prevails thanks to receiving a majority of total votes in the final round.

As evidence, consider the following examples. A 2015 study ([Burnett & Kogan, 2015](#)) reviewed 600,000 votes cast using RCV in four local elections held in Washington state and California. The study found that “the winner in all four of our cases receives less than a majority of the total votes cast, a finding that raises serious concerns about [RCV] and challenges a key argument made by the system’s proponents” ([p. 41](#)). Another broader survey of 96 jurisdictions using RCV found that, on average, 10.92% of the ballots cast in RCV elections were exhausted before the last round ([Alaska Policy Forum & Maine Policy Institute, 2020, p. 6](#)). In yet another notable instance, “the 2010 election for San Francisco’s Board of Supervisors in District 10 resulted in 9,608 exhausted ballots whereas the prevailing candidate only received 4,321 votes” ([p. 7](#)). This incident is striking as there were more ballots exhausted than were finally received by the winning candidate.

Many jurisdictions, including those cited in the aforementioned 2015 study, exacerbate the ballot exhaustion problem further by restricting the number of candidates that voters can rank even when there are more candidates in the race. With fewer choices to make, there is a greater likelihood that a ballot will be completely exhausted sooner rather than later.

RCV Creates Confusion and Enables Controversy

Ranked-choice voting systems can create confusion in at least two different ways.

First, RCV systems tend to be complicated in both their form and function. This can present a challenge to voters unfamiliar with its novel approach. As an example, consider the great lengths that one community went to in an attempt to explain to voters how the system worked: “In Maine, voter confusion was so pervasive that proponents of ranked-choice voting felt the need to publish a 19-page instruction manual to help voters navigate the process” ([Alaska Policy Forum & Maine Policy Institute, 2020, p. 5](#)).

The second way in which RCV systems can engender confusion is through its requirement that voters rank many, if not all, candidates on the ballot. This design “demands that voters have a large amount of information about candidates’ differing views” ([Alaska Policy Forum & Maine Policy Institute, 2020, p. 5](#)). Experience shows that voters tend not to follow political races close enough to have this level of information, which ultimately puts much of the electorate in the position of having to employ guesswork to complete their ballots. In such an environment, informed decision-making may not always win the day.

Further still, RCV creates the conditions by which controversies may arise. That is because under an RCV system, voters have an incentive to alter their preferences to gain a tactical advantage. Consider the following hypothetical.

In 1992, Ross Perot was a widely popular third-party alternative to incumbent Republican George H.W. Bush and the Democrat challenger Bill Clinton, who ultimately prevailed. Had an RCV system been in place though, the results may have been different. Imagine if a significant number of Ross Perot voters had declared George H.W. Bush as their second-preferred candidate and, per the design of the RCV system, those Perot votes were then awarded to Bush and the results retallied. In that scenario, there is strong likelihood that Bush would have won the election over Clinton ([Sorens, 2016, para. 5](#)).

While the example outlined is merely a hypothetical, it does illuminate the possible ways in which political controversies could erupt under an RCV system in races big and small.

Status of Ranked-Choice Voting in Texas

There is some debate regarding the legal status of RCV in Texas. In 2021, voters in Austin approved Proposition E, which would have allowed the use of RCV in the city's elections. Although voters approved it, the city was informed by the Texas Secretary of State that the practice was banned by state law and thus could not be used in their elections ([Reader, 2022, p. 6](#)).

Much of the rationale for the Texas Secretary of State's response had been affirmed previously. In 2001, then-Attorney General Henry Cuellar advised the city of Austin's law department that officials could not "adopt preferential voting" ([Letter from Secretary of State Henry Cuellar to John Steiner, 2001](#)). In 2003, then-Attorney General Greg Abbott issued an advisory opinion finding that "State law preempts a home-rule municipality's adoption of instant runoff voting," which is synonymous with RCV ([Letter from Attorney General Greg Abbott to Representative Uresti, 2003, p. 6](#)). Both of these opinions were based on a sound interpretation of [Texas Election Code, Section 275.002](#), which requires that, in order to be elected in a city with a population over 200,000, "a candidate must receive a majority of the total number of votes received by all candidates for the office." This, of course, is at odds with the RCV system.

Thus far, these opinions have been sufficient to prevent the adoption of RCV in Texas. It is worth noting, however, that if a secretary of state or attorney general were to issue an opinion to the contrary, then it might allow RCV to be adopted in jurisdictions across the state and invite legal challenges. Hence, if RCV is to truly be eliminated in Texas, policymakers must amend the Election Code to outline a clear ban on the practice that does not rely on opinions alone.

An Example We Can Follow

Policymakers in Texas and across the nation have already been presented with a viable example of how to go about limiting RCV practices in their states. Last year, Florida Governor Ron DeSantis signed SB 524 ([2022](#)) into law which, amongst many other measures, bans RCV across the state ([p. 25](#)). However, Florida was not the first state to prohibit RCV. Tennessee enacted a similar measure in February 2022 with the passage of SB 1820 ([2022](#)). In both cases, the ban on RCV extended to elections administered by the state as well as to those administered by local governments.

Certain groups, like the Foundation for Government Accountability (FGA), have praised the two bills as an important step in strengthening the trust Americans

have in their electoral process. What's more, although the governments of Florida and Tennessee were controlled by Republicans when the states banned RCV, experts have made sure to note that banning RCV has bipartisan support ([FGA, 2022, para. 7](#)). Many nationally prominent Democrats, such as former California Governor Jerry Brown ([Sharp, 2016, para. 24](#)) and current California Governor Gavin Newsom ([2019](#)), have expressed concerns over the confusing nature of RCV and whether or not it would truly change American democracy for the better.

What's Next for Policymakers and the State of Texas?

Legislation has been filed to either explicitly permit or prohibit RCV in Texas.

For example, in the 88th Texas Legislature, one prominent measure that would allow the adoption of RCV across Texas is HB 259 ([2023](#)). This measure would permit the governing body of a city or a school district to authorize the use of an RCV system for the election of local officials and potentially invite the negative impacts outlined above. Other permissive pieces of legislation of a similar nature include House bills 1112 ([2022](#)), 1444 ([2023](#)), 1792 ([2023](#)), and 2825 ([2023](#)), as well as Senate bills 359 ([2023](#)) and 637 ([2023](#)).

On the other side of the issue and still in the 88th Legislature, two prominent measures would make it clear that RCV systems may not be employed in Texas. Those bills are Senate Bill 921 ([2023](#)) and its identical companion House Bill 3611 ([2023](#)), which may be summarized as such:

In the past, there have been disputes as to whether the term 'majority' in the Texas Election Code authorizes the use of preferential voting, also known as instant runoff or alternative voting, in elections requiring a majority of votes cast for a candidate to win. Opinions issued by the secretary of state and attorney general, relying on the code's language, legislative action and court opinions, have concluded that the law does not. S.B. 921 simply formalizes these opinions into statute by clarifying what the majority vote requires, and prohibiting the use of a preferential voting system in elections for public office. ([SB 921 Bill Analysis 2023, p. 1](#))

Considering the consequences of the RCV system, policymakers should seek to advance bills in the latter camp and make it clear that this problematic system is unwelcome in state and local elections. Doing so will ensure that Texas' elections remain understandable and unpolluted by less than ideal approaches. ★

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Quintero and his wife, Tricia, are blessed with five beautiful children, a Great Dane, a Boston Terrier, and an exceptionally large grocery bill.



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