

Date: April 11, 2024

To: Colorado State Title Board
From: Patrick Dillon and Caryn Ann Harlos, Colorado Registered Electors,
represented by Linda Templin

Re: Motion for Rehearing 2023-2024 #188 Concerning the Conduct of Elections

Reason(s): A. Violates single-subject rule
B. Title does not fairly describe the initiative

A. Potential Single Subject Violations

Measure contains multiple subjects: Plurality Primaries and Ranked Choice Voting (RCV)

However, Connecting the two things in one measure violates single-subject because there is no “proper” connection between changes to the primaries and changes to the voting method for the general election. It is noted that attorneys for the proponents no longer put forth that connecting an all-candidate plurality primary to RCV in the general election “is the only way it works,” which is patently false. (The state of Maine uses RCV in both their primaries and general elections. (<https://www.maine.gov/sos/cec/elec/results/index.html>))

However the fact remains that the all-candidate primaries act to restrict choice in a way that biases high-dollar donors. In plurality elections, it is a common occurrence that opposition to a candidate to fund a clone candidate to split that viewpoint’s votes between two or more candidates. (Ross Perot in 1992 is only one example.)

The RCV general election acts to level the playing field between candidates in a way that means money matters less. These are contradictory purposes. If voters prefer to have only four or fewer candidates, they should get to say so by voting for all-candidate primaries. If the voters prefer to have the same number or more viewpoints on the ballot, then they should have the option to vote for RCV on its own. There is no proper connection between RCV and a bottleneck, all-candidate primary.

B. Potential Title Description Violations

Title does not fairly describe the initiative: “Rank” and the missing word “runoff” at issue

Ranked Choice Voting (RCV) is the shiny object that is being exploited. A very short way to describe it is “ranked ballots to be used in a runoff tally in the event that there is no majority winner”. RCV is the voter-centered name for the instant runoff voting (IRV) tally. IRV was created in the 1870’s by William Ware of MIT as the truncation of single transferable vote (STV) (invented in the 1830’s) to provide proportional representation when there are multiple winners (such as in County Commissioner etc.)

Other methods of tally that use a ranked ballot use a different moniker - such as Bucklin Voting. Bucklin Voting used a tally method that fails one-person-one vote legal challenges (Brown v Smallwood 1915). The tally being proposed in 188 is not clear in either the text for the title.

Proponent's attorney said that it is "different from the municipal version" but failed to explain how the tally works. There is no vagary in regard to what IRV is and it is inaccurate to call it "municipal".

An "Instant Runoff" using a ranked ballot is a very specific method understood around the United States and around the world as being only one tally system. Beyond Colorado's rule 26: Six states use RCV ballots / IRV tally for military and overseas (UOCAVA) voters. Their federal and state elections require a majority winner, so they have runoff elections. The UOCAVA voters use the ranked ballots to identify their preferences so that in the event of a runoff election their votes are still counted even when there is not enough time to get an overseas ballot out to remote locations on the globe and back stateside. These states are Alabama, Arkansas¹, Georgia, Louisiana, Mississippi, and South Carolina².

Roberts' Rules of Order identifies that the best means of reaching a majority consensus is to have multiple rounds of debate, balloting, and eliminations. If that is not feasible, Robert's Rules identifies Ranked Ballots with an Instant Runoff Tally as the next best means of identifying a winner. Since at least the early 1900's, Robert Rules has recommended this method, but called it by the European name "preferential voting".

- A) If 188 intends to institute RCV/IRV, then the title should clearly say so to avoid public confusion by using the word "ranked" or "rank" in connection with the word "runoff".
- B) If 188 intends to institute a different tally method, then the title should clearly say so to avoid public confusion by NOT using the word "ranked" or "rank" but instead describe their novel voting method. The words "ranked" and "rank" are shiny objects to 80% voters who tire of having to vote for the "lesser of two evils" instead of freely voting their values. Use of that word would manipulate a strong majority of voters into voting for 188 thinking that it is the proven and reliable voting method used in US government elections since 1915.

¹ <http://www.arkleg.state.ar.us/assembly/2005/R/Pages/BillInformation.aspx?measureno=HB1770>

² http://www.scstatehouse.gov/sess116_2005-2006/bills/3720.doc