## STAFF REPORT

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| **Agenda Item:** | 6 | **Name:** | Miranda Leskinen |
| **Proposed No**.: | 2021-0232 | **Date:** | July 7, 2021 |

**SUBJECT**

An ordinance to submit a charter amendment proposition to the voters to utilize ranked-choice voting for the election of county officers.

**SUMMARY**

Proposed Ordinance 2021-0232 would place on the November election ballot a charter amendment proposal to utilize ranked-choice voting for the election of county officers, including the King County Executive, the King County Assessor, the King County Director of Elections, the King County Councilmembers and the King County Prosecuting Attorney. If approved by voters, and subject to Council’s adoption of an ordinance approving protocols for ranked-choice voting, the amendment would take effect January 1 following Council’s adoption of the ranked-choice voting protocols ordinance.

To place this potential charter amendment on the November 2, 2021 ballot, the last regular Council meeting date for adoption as a non-emergency is July 20, 2021. The deadline for Elections to receive the effective ordinance is August 3, 2021.

Staff have prepared a technical corrections line amendment, and an accompanying title amendment, which are included as attachments to this staff report (Attachments 2-3).

**BACKGROUND**

**Election of county officers in King County.** Section 610 of the King County charter currently directs that “the nominating primaries and elections for the offices of King County Executive, King County Assessor, King County Council and King County Prosecuting Attorney shall be conducted in accordance with general law governing the election of non-partisan county officers”. Of note, Washington State law requires that primaries be held prior to a general election for partisan offices.[[1]](#footnote-1) Primaries can also be held for non-partisan offices except where two or fewer candidates have filed for the position. In the primary, the names of all candidates that file for office generally will appear on the primary ballot, with the top two candidates advancing to the general election ballot.

Under current practice, the winners of single-member offices in jurisdictions throughout Washington are determined using the plurality system in which voters select one candidate and the candidate who receives the most votes is declared the winner[[2]](#footnote-2). If there is a tie, the winner is chosen by lot.

State law does not prohibit the implementation of ranked-choice voting by home rule charter counties.

**Ranked-choice voting[[3]](#footnote-3).** Ranked-choice voting (RCV) is a system of voting that allows voters to rank candidates for a single office in order of preference (first choice, second choice, etc.). The votes are tallied based on the first choice on every ballot. If a candidate receives over 50 percent of the first-choice preferences, that candidate would be declared the winner. If no single candidate wins a first-round majority of the votes, then the candidate with the lowest number of votes is eliminated and another round of vote tallying commences. If a voter's first choice is eliminated, then their vote is transferred to their second-choice preference. This process repeats and the last-place candidate is eliminated in each round until one candidate reaches a majority (over 50 percent) and wins the election.

When RCV is conducted to elect one candidate (instead of multiple candidates in a multi-member district[[4]](#footnote-4)) the result is similar to traditional runoff elections and, in those situations, the terms “ranked-choice voting” and “instant run-off voting” are used interchangeably. Illustrations 1 through 3 provide hypothetical scenario examples for this process.

**Illustrations 1-3. Ranked Choice Voting/Instant Runoff Voting**

**Hypothetical Scenarios**

**Scenario 1:** Candidate B receives a majority of 1st-choice preference votes (54 percent) in Round 1 of vote tallying and wins the election.

**Scenario 2:** No candidate receives a majority of 1st-choice preference votes in Round 1 of vote tallying. The candidate with the fewest number of votes in Round 1 (Candidate D) is eliminated and Candidate D's votes are redistributed based on the voters' 2nd-choice preference.

Candidate B receives a majority of votes (53 percent) in Round 2 of vote tallying and wins the election.

**Scenario 3**: No candidate receives a majority of 1st-choice preference votes in Round 1 of vote tallying. The candidate with the fewest number of votes in Round 1 (Candidate D) is eliminated and Candidate D's votes are redistributed based on the voters' 2nd-choice preference.

No candidate receives a majority of votes in Round 2 of vote tallying. The candidate with the fewest number of votes in Round 2 (Candidate C) is eliminated and Candidate C's votes are redistributed based on the voters' 2nd choice preference (or 3rd choice if their 2nd choice has already been eliminated).

Candidate B receives a majority of votes (60 percent) in Round 3 of vote tallying and wins the election.

Use of RCV in the United States.Municipalities in several states, including California, Colorado, Maine, Maryland, Massachusetts, Minnesota, New Mexico, New York and Oregon have used RCV in municipal elections. One state, Maine, has used RCV in statewide and federal elections. Alaska voters approved a ballot measure in 2020 that will require use of RCV in state and federal general elections beginning in 2022. The City of New York, beginning in 2021, is using ranked-choice voting for primary and special elections for the offices of the Mayor, Public Advocate, Comptroller, Borough President and City Council due to an amendment to the city’s charter that was approved by voters in 2019.

In Washington State, City of Vancouver voters in 1999 approved an amendment to its city charter that allows the City Council, if a resolution authorizing its use is passed at least 30 days before the candidate filing deadline for any special or regular election, to authorize single-election instant runoff voting for the election of city officers. Additionally, Pierce County voters approved an amendment in 2006 to its county charter authorizing RCV, which was subsequently implemented in the 2008 and 2009 general elections for county elected officials (except judges and prosecuting attorney). However, the authorization was later repealed by Pierce County voters in 2009.

**Substitute House Bill 1156.** Multiple bills relating to ranked-choice voting have been introduced in recent years in the State Legislature that would have expanded the use of RCV in the state. Most recently, during the 2021 Legislative Session, HB 1156 was introduced, which would have permitted RCV in elections for offices in counties, cities, towns, school districts, fire districts and port districts, and would have established certain requirements for RCV ballot design and vote tabulation. Additionally, the bill would have included a cost-recovery provision to the Washington Voting Rights Act (WA VRA) to allow a person who files a notice alleging a violation of the Act to recoup research costs, up to $30,000, if the political subdivision were to adopt a remedy in response to the notice. The bill would also have (subject to appropriation) allowed the Secretary of State to provide grants to local governments to implement RCV or make changes to their electoral system in response to a notice filed under the WA VRA.

Of note, the bill would have allowed implementing jurisdictions to eliminate or hold a primary (in the event of five or more filed candidates for an office) when using RCV to narrow the list of candidates to appear on the general election ballot to five candidates. Additionally, for offices in which there is more than one position with the same name, district number or title, the bill would have allowed implementing jurisdictions to choose whether the positions would be addressed as separate offices or as a multi-member office. If addressed as separate offices, the bill directed that RCV would be conducted using instant-runoff voting (IRV). If addressed as a multi-member office, the bill directed that RCV would be conducted using the single-transferable vote method.

Also of note, the bill directed that jurisdictions adopting RCV before 2022 would have to implement RCV for elections beginning in 2024, whereas jurisdictions adopting RCV during or after 2022 would have to implement RCV for elections beginning within two years of adoption. The bill would also have directed the Secretary of State’s office to establish a workgroup to consult with when developing administrative rules relating to RCV. This legislation ultimately did not advance out of its house of origin during the 2021 session.

**King County Charter Review Commission recommendation regarding RCV**. The King County Charter provides for a resident commission to be assembled every ten years for the purpose of reviewing the charter and presenting a written report to the King County Council recommending amendments. In the 2018-2019 King County Charter Review Commission’s final report to the Council,[[5]](#footnote-5) ranked-choice voting was an issue recommended for further study. As described in the report, the Commission invested significant time during its deliberations about a proposal to move the county to RCV for county elected offices, but the Commission could not reach a consensus on whether the move should be pursued or what model should be implemented. Specifically, the Commission recommended in its report that the County Council study this issue by forming a task force to determine if it is in the best interest of the public.

**Potential for impact of RCV on underrepresented populations.** A 2016 study[[6]](#footnote-6) which analyzed the candidates running for office after the implementation of RCV in the cities of San Francisco, Oakland, Berkeley, and San Leandro, California found that the voting structure increased “descriptive representation for women, people of color, and women of color.” Descriptive representation refers to the idea that a body of elected representatives should reflect the outward characteristics, such as such as occupation, race, ethnicity, or gender, of the populations they represent.

The study analyzed races in 11 California cities for various city-wide elected positions between 1995 and 2014, including the four California cities that implemented RCV and seven cities that did not implement the new structure but were similar in population size, racial makeup, and income. The seven non-RCV cities were Alameda, Anaheim, Richmond, San Jose, Santa Ana, Santa Clara, and Stockton, California. The study measured the percentage of candidates who were women, people of color, and women of color as well as the percentage of winners who identified with those categories.

In a section of the study that did not control for differing characteristics of the cities, such as gender and racial demographics, median household income, education levels, partisanship, and others, researchers found the following:

* Although the percentage of female candidates running for election declined slightly after the implementation of RCV in the cities that had adopted it, the overall percentage of female candidates running for election was higher and declined less in those cities versus non-RCV cities;
* The percentage of candidates of color for elective office increased by five percentage points, and the percentage of female candidates of color increased by three percentage points, once RCV was implemented;
* The percentage of elective offices won by women increased slightly after implementation of RCV, while the percentage of elective offices won by women decreased over the same time period in cities that did not implement RCV; and
* The percentage of people of color winning elective office increased more than 18 points after implementation of RCV while the increase was three points over the same time period in cities that did not implement RCV.

These findings were more pronounced for open seat races than in races where an incumbent ran. In a section of the study that did control for the above-mentioned differing characteristics of the cities researchers found:

* Over time, there was a 26 percent increase in the probability of women being elected to office in cities that had adopted RCV and a 28 percent decrease in probability of the same outcome in non-RCV cities;
* Over time, the predicted probability of a woman of color being elected to office remained at 21 percent in RCV cities but declined from 19 percent to six percent in non-RCV cities; and
* There was a 5-percentage point increase in the percentage of female candidates of color running for office in RCV cities.

Ballot exhaustion. An expressed concern regarding ranked-choice voting is the potential for ballot exhaustion. Ballot exhaustion occurs when a ballot is no longer countable in a tally, such as when there are still remaining candidates but all the candidates a voter ranked have already been eliminated. For example, in the case of the 2009 election of the Pierce County Auditor that was conducted using RCV, the RCV algorithm results showed that nearly three percent of ballots were exhausted in the last (2nd) round of vote tallying.[[7]](#footnote-7) In another example to highlight the range potential for ballot exhaustion, in the 2011 San Francisco mayoral election conducted using RCV, approximately 27 percent of ballots cast did not rank the final two candidates who reached the last (12th) round of vote tallying.[[8]](#footnote-8)

**ANALYSIS**

Proposed Ordinance 2021-0232 would place on the November 2, 2021 election ballot a charter amendment proposal to utilize ranked-choice voting (RCV) for the election of county officers, including the King County Executive, the King County Assessor, the King County Director of Elections, the King County Councilmembers and the King County Prosecuting Attorney. If approved by voters, and subject to Council’s adoption of an ordinance approving protocols for ranked-choice voting, the amendment would take effect January 1 following Council’s adoption of the RCV protocols ordinance.

The ordinance directs that ranked-choice voting (if approved) would give voters the option of ranking candidates in order or preference and would be conducted in rounds. In each round, each voter’s ballot would count as a single vote for whichever continuing candidate the voter has ranked highest, and the candidate with the fewest votes after each round would be eliminated, and the eliminated candidate’s votes would be redistributed to the next -ranked continuing candidate. This process would repeat until one candidate receives a majority of votes for all remaining candidates. Per the ordinance, that candidate would be deemed elected at the time of election certification. Additionally, when RCV is conducted, there would be no primary for the impacted office(s) and all qualified candidates would appear directly on the general election ballot.

Lastly, in a scenario where no more than candidates have filed for a county office, the ordinance permits that the election for that office may be conducted by either ranked-choice voting or according to general law governing nonpartisan offices.

**RCV implementation timing and cost considerations.** According to King County Department of Elections (KCE) staff, approximately three to five years is the estimated timeframe needed for the department to prepare for RCV implementation. KCE staff note the timeframe is primarily driven by the amount of time necessary to develop, certify, and test updates to its ballot tabulation system capable of handling RCV, including extensive internal testing by the department. KCE staff currently anticipate the other activities the department would need to complete (e.g. coordinating with the Secretary of State’s office, voter outreach/education) could be done within the time needed for the tabulation system updates.

While a comprehensive cost estimate for implementing ranked-choice voting is not available, KCE staff expect (subject to change as the specifics around the exact procedures and protocol of RCV are decided) that the major costs associated with implementing RCV would include the following:

* + ***Tabulation System*:** KCE staff estimate the major capital cost would be the development costs for updating the ballot tabulation system so it can count RCV ballots.
	+ ***Voter Education Campaign*:** According to KCE staff, an extensive voter education campaign would be needed during the initial implementation of RCV in order to ensure voters understand and trust the new system of voting and to ensure that the change does not disenfranchise historically underserved communities. KCE is currently estimating that this initial campaign would cost at least $500,000, which is roughly based on the recent experiences of New York City’s implementation of RCV and its associated voter education campaign. Of note, this estimate does not include the costs of ongoing voter education on the topic after initial implementation.
	+ ***Multiple Page Ballots*:** KCE staff indicate that the extra space RCV races take up on the ballot would likely require multiple page ballots, which would lead to an increase in printing costs.[[9]](#footnote-9)
	+ ***Staffing*:** The department anticipates that additional staff would be needed to implement RCV, both for the initial implementation and ongoing after that. According to department staff, some of this staffing need is directly related to RCV itself, while some of this staffing need is more directly related to conducting an election with multiple page ballots. Estimated additional staffing includes the following:
* Three additional full-time equivalent employees at an annual cost of about $200,000, to support the additional processes and workload around ballot processing created by RCV and multiple page ballots.
* Two term limited temporary (TLT) employees to help support the initial rollout of RCV at an annual cost of about $212,000. The department notes it has not made a final determination on how long these TLT employees would be needed, but the initial estimate is at least one year.
* Upwards of 40 additional short-term temporary (STT) employees during elections where RCV is utilized at an estimated cost of at least about $175,000 per election with RCV. According to KCE staff, the majority of these additional STT employees would be needed to support the increased workload on ballot opening processes created by multiple page ballots, while the rest would be needed to support various ballot processing and customer service work made more complicated by both RCV and multiple page ballots. It is important to note that KCE indicates this is an initial estimate and the exact number of additional STT employees needed would vary from election to election.

**Potential policy issues.** A summary of some potential policy issues is provided below.

Charter amendment effective date. As currently drafted in the proposed ordinance (2020-0232.1), the proposed charter amendment (if approved by the voters) would take effect the January following Council’s adoption of an ordinance approving ranked-choice voting protocols. It is important to note that Proposed Ordinance 2021-0232.1 is silent regarding when, and whether, the Council would be required to adopt the ordinance approving RCV protocols. Hypothetically, as currently drafted, if the voters were to approve the charter amendment but the Council does not adopt an ordinance approving RCV protocols, then the charter amendment would not take effect. The effective date for the proposed charter amendment presents a policy choice.

Definitions. The proposed ordinance currently lacks a definitions section (to define terms such as “majority”), which presents a policy choice to the Council as to whether to keep the proposed ordinance language as is, to include a definitions section in this proposed ordinance, or to provide direction in this proposed ordinance regarding specific terms to be defined in the RCV protocols ordinance.

RCV protocols ordinance direction. The proposed ordinance, as currently drafted, does not provide direction as to the process for determining whether RCV would be conducted in an event of two or few candidates having filed for a county office. This presents a policy choice as to whether to provide this direction in the proposed ordinance or wait to address this issue in the RCV protocols ordinance. It is also important to note that the proposed ordinance does not provide direction on specific issues to be addressed in the RCV protocols ordinance.

As indicated by KCE staff, as part of the activities to prepare for RCV implementation, the department would need to coordinate with the Council on certain decisions relating to RCV protocols, such as: the number of candidates the voter is allowed to rank; the handling of ballots with a skipped ranking or more than on consecutively skipped ranking; the handling of ballots where more than one candidate is indicated for the same rank; and the format and frequency in which results are posted online for the public, media and campaigns. Of note, the department indicates it would also need to, in coordination with the Council and its process for developing the ordinance on RCV protocols, draft and submit to the review process a new Public Rule containing any necessary administrative rules for implementing RCV not included in the protocols ordinance.

**Next steps and key dates.** Proposed Ordinance 2021-0232 was introduced and referred to the Committee of the Whole on June 15, 2021. An initial briefing was held in the Committee of the Whole at its June 16, 2021 meeting. To place this potential charter amendment on the November 2, 2021 ballot, the last regular Council meeting date for adoption as a non-emergency is July 20, 2021.[[10]](#footnote-10) The deadline for Elections to receive the effective ordinance is August 3, 2021.

**AMENDMENTS**

Staff have prepared a line amendment, and an accompanying title amendment, which are included as attachments to this staff report. Amendment 1, and accompanying Title Amendment T1, would correct the reference to the election date in the ordinance to align with state law pertaining to general elections held in odd-numbered years. Additionally, Amendment 1 would make a correction in the proposed ordinance language when referring to a scenario where no more than two candidates have filed for a county office in King County by changing “only two candidates have filed” to “two or fewer candidates have filed”.

**INVITED**

* Julie Wise, Director, King County Elections

**ATTACHMENTS**

1. Proposed Ordinance 2021-0232
2. Amendment 1
3. Title Amendment T1
1. For primary elections, Washington uses a top-two primary system in which all candidates are listed on the same primary ballot and voters may choose any candidate. The name of the candidate who receives the greatest number of votes in the primary appears first on the general election ballot, and the name of the candidate who receives the next greatest number of votes appears second. For offices in which there is more than one position with the same name, district number, or title, the positions are dealt with as separate offices to which candidates are elected in single-winner contests. [↑](#footnote-ref-1)
2. The county’s canvassing board is responsible for conducting a formal assessment (“canvass”) of an election. The assessment includes reviewing vote totals, determining validity of challenged ballots, certifying the vote and administering a recount. Every county in Washington must have a canvassing board.URL:<https://kingcounty.gov/depts/elections/about-us/boards-and-committees/canvassing-board.aspx>. Last accessed on June 29, 2021. [↑](#footnote-ref-2)
3. National Conference of State Legislatures (NCSL). *Alternative Voting Systems.* URL: <https://www.ncsl.org/research/elections-and-campaigns/alternative-voting-systems.aspx>. Last accessed on June 28, 2021. [↑](#footnote-ref-3)
4. In elections for multiple-member offices, votes are tabulated using the single transferable vote method. In this method, the winning threshold is calculated based on the number of seats to be filled and the number of votes cast. Ballots are counted in rounds, and votes are transferred to next-ranked candidates from candidates with the fewest votes, who are eliminated, as well as candidates who have already surpassed the threshold to win. [↑](#footnote-ref-4)
5. *2018-2019 King County Charter Review Commission: Report to the King County Council.* URL: <https://mkcclegisearch.kingcounty.gov/LegislationDetail.aspx?ID=4342681&GUID=94BD6562-0CDC-410F-B14A-939410A85336>. Last accessed on June 28, 2021. [↑](#footnote-ref-5)
6. Sarah John, Haley Smith, and Elizabeth Zack, The Impact of Ranked Choice Voting on Representation: How Ranked Choice Voting Affects Women and People of Color Candidates in California, 1 (July 2016). URL: <https://fairvote.app.box.com/v/RCV-Representation-BayArea>. Last accessed on June 29, 2021. This study information is also included in the staff report on RCV included in the 2018-2019 Charter Review Commission’s final report to the Council. [↑](#footnote-ref-6)
7. Pierce County Department of Elections. *Ranked Choice Voting Algorithm Results, Pierce County Auditor*. URL: <https://www.piercecountywa.gov/2941/Ranked-Choice-Results>. Last accessed on June 29, 2021. [↑](#footnote-ref-7)
8. City and County of San Francisco Department of Elections. *Results Summary, November 8, 2011 – Consolidated Municipal Election*. URL: <https://sfelections.org/results/20111108/>. Last accessed on June 29, 2021. Also see New York Times. *How Ranked-Choice Voting Could Affect New York’s Mayoral Race*. Updated June 10, 2021. URL: <https://www.nytimes.com/2021/05/28/us/politics/ranked-choice-voting-new-york-mayoral-race.html>. Last accessed on June 29, 2021. [↑](#footnote-ref-8)
9. For context, printing single page ballots currently costs KCE $0.28 per ballot, while printing two-page ballots would cost KCE $0.66 per ballot (an additional $0.28 for the second page plus a $0.10 assembly surcharge). KCE staff note that exactly how much this would increase costs in each election where RCV is used would vary, but as an example if all ballots in the 2020 November General Election had been two pages then the cost of printing ballots for that election would have increased from roughly $407,000 to roughly $960,000. [↑](#footnote-ref-9)
10. An ordinance adopting a charter amendment is not subject to Executive veto, so the legislation is effective ten days after the Council adopts it. [↑](#footnote-ref-10)