



Legislative Council Staff *Nonpartisan Services for Colorado's Legislature*

Final Fiscal Note

Drafting Number:	LLS 21-0138	Date:	August 18, 2021
Prime Sponsors:	Rep. Kennedy Sen. Fenberg; Winter	Bill Status:	Signed into Law
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Bill Topic: RANKED CHOICE VOTING IN NONPARTISAN ELECTIONS

Summary of Fiscal Impact:	<input checked="" type="checkbox"/> State Revenue	<input type="checkbox"/> TABOR Refund
	<input checked="" type="checkbox"/> State Expenditure	<input checked="" type="checkbox"/> Local Government
	<input type="checkbox"/> State Transfer	<input type="checkbox"/> Statutory Public Entity

Beginning in 2023, this bill allows municipal elections using instant runoff voting (IRV) to be conducted as a part of a coordinated election if certain conditions are met. This bill increases state revenue and expenditures, and local expenditures on an ongoing basis beginning in 2023.

Appropriation Summary: No appropriation is required.

Fiscal Note Status: This fiscal note reflects the enacted bill.

**Table 1
State Fiscal Impacts Under HB 21-1071**

		Budget Year FY 2021-22	Out Year FY 2022-23	Out Year FY 2026-27
Revenue	Cash Funds	-	-	\$85,896
	Total Revenue	-	-	\$85,896
Expenditures	General Fund	-	\$609,000	\$50,617
	Cash Fund	-	-	\$85,896
	Centrally Approp.	-	-	\$11,922
	Total Expenditures	-	\$609,000	\$148,435
	Total FTE	-	-	0.8 FTE
Transfers		-	-	-
TABOR Refund		-	-	Not estimated.

¹ Costs are also incurred in FY 2023-24, FY 2024-25, and FY 2025-26 but have been omitted due to space constraints. See State Expenditures sections.

Summary of Legislation

Starting in January 2023, this bill allows single-county municipal elections using instant runoff voting (IRV) to be conducted by a county clerk as a part of a coordinated election. Starting in July 1, 2026, this option will be made available for municipalities located in multiple counties. The Secretary of State (SOS) is required to establish the rules, requirements, and specifications for a voting system allowing IRV by April 1, 2023 for voting conducted in a single county, and by January 1, 2025 for municipalities in multiple counties. The SOS must certify a system and, if possible, purchase a single annual statewide license available to county clerks conducting IRV as part of a coordinated election.

Background

Rank choice voting, or instant runoff voting (IRV), is a system that allows voters to rank candidates by preference instead of choosing one candidate. In Colorado, it is currently used in some municipal races in Basalt, Carbondale, and Telluride. Boulder will begin using IRV for municipal elections in 2023. Colorado counties currently use two voting systems; 62 counties use Dominion's Democracy Suite and 2 counties use Clear Ballot's ClearVote system. Dominion's system currently has the capability to add IRV to its software, while Clear Ballot's currently does not.

State Revenue

The bill requires that counties participating in rank choice voting and utilizing the software reimburse the Secretary of State for licensing fees. Beginning in FY 2023-24, this will amount to approximately \$75,000-\$85,000 annually to the Department of State Cash Fund, and the cost per county will depend on how many utilize the software. The reimbursements from counties will be treated as revenue and are subject to TABOR.

State Expenditures

This bill will increase state expenditures in the SOS by \$609,000 in FY 2022-23, and by \$336,700 in FY 2023-24. Expenses continue through FY 2026-27 to fully implement the bill. These costs, paid from the General Fund and the Department of State Cash Fund, are displayed in Table 2 and described below.

**Table 2
Expenditures Under HB 21-1071**

	FY 2022-23	FY 2023-24	FY 2024-25	FY 2025-26	FY 2026-27
Department of State					
Personal Services	-	-	-	-	\$43,337
Operating Expenses	-	-	-	-	\$1,080
Capital Outlay Costs	-	-	-	-	\$6,200
Voting System Licensing	-	\$74,200	\$74,051	\$77,754	\$85,896
Risk Limiting Audit Software	\$577,500	-	-	-	-
Computer Programming	-	-	\$41,328	-	-
Other Software Updates	\$31,500	\$262,500	\$42,000	-	-
Centrally Appropriated Costs ¹	-	-	-	-	\$11,922
Total Cost	\$609,000	\$336,700	\$157,379	\$77,754	\$148,435
Total FTE	-	-	-	-	0.8 FTE

¹ Centrally appropriated costs are not included in the bill's appropriation.

Personal services. The SOS will require an additional 0.8 FTE to adopt rules for implementing IRV in municipal races, develop voting system standards and requirements, and to test and certify new applications and software. New staff will begin in September 2026 to manage ongoing issues related to IRV voting after the initial implementation of single- and multi-county IRV in municipal elections.

Voting system licensing. Once a voting system is tested and certified to meet IRV requirements, the SOS must purchase a statewide license accessible by county clerks, as well as procure domain names. The statewide license would only be accessible to counties with Dominion voting systems, and there could be additional licensing costs in the future should Clear Ballot add the capability to support IRV. The SOS will be reimbursed for these costs by municipalities that choose to run an IRV election, therefore this fiscal note assumes the upfront costs will be paid from the Department of State Cash Fund. It is expected that these software costs will increase in future fiscal years.

Risk limiting audit software. The software for post-election audits must be updated to accommodate IRV. This requires contracting a third-party vendor at a one-time cost of \$577,500. Staff must be trained on the new method and the application must be built and tested. This will require 320 hours of contractor time at a rate of \$129.15/hour, resulting in a cost of \$41,328. This fiscal note assumes a higher hourly rate due to annual increases in contractor time.

Other software updates. The bill requires the SOS to develop a centralized IRV tabulation system. Using a third party vendor, this will be a one-time cost of \$42,000, based on 200 hours of programming at a rate of \$210 per hour. The electronic ballot delivery system for military, overseas, emergency, and disabled voters will need to be updated with IRV capabilities, this would be a one-time cost of \$31,500. Changes to the election night reporting software are required in order to support IRV, at a one-time cost of \$262,500.

TABOR refunds. The bill may increase the amount of state revenue required to be refunded to taxpayers by the amounts shown in the State Revenue section above. TABOR refunds are paid from the General Fund. This estimate is based on the June 2021 LCS revenue forecast, which incorporates the revenue impacts of bills passed during the 2021 session. A forecast of state revenue subject to TABOR is not available beyond FY 2022-23.

Federal ARPA funds. This bill increases state revenue, which may impact the state's flexibility in spending federal American Rescue Plan Act (ARPA) funds. For more information, see the LCS memo, titled "Legislative Changes and Flexibility in Use of American Rescue Plan Funds," available online at: <https://leg.colorado.gov/node/2211881>.

Local Government

This bill will increase costs and workload for municipalities who choose to conduct IRV elections as part of coordinated elections. The bill requires a municipality to pay the cost of an IRV election to the county clerk. These costs could include election setup, programming, ballot design, tabulation, and additional voter information and education. It also requires all municipalities running IRV elections to reimburse the SOS for the cost of statewide software licenses, estimated at \$70,000 annually. The cost per municipality will depend on how many choose to run coordinated IRV elections. Overall, total costs will vary based on the election and the contract each municipality has with their local county clerk's office.

Effective Date

This bill was signed into law by the Governor on June 28, 2021, and takes effect on July 1, 2022, assuming no referendum petition is filed.

State and Local Government Contacts

Counties	County Clerks	Information Technology
Law	Municipalities	Personnel
Secretary of State		