

CHAPTER 292

ELECTIONS

HOUSE BILL 08-1378

BY REPRESENTATIVE(S) Kefalas, Carroll M., Carroll T., Fischer, Frangas, Hodge, Labuda, Madden, McGihon, Weissmann, and Borodkin;
also SENATOR(S) Gordon, Bacon, Groff, Schwartz, Tupa, and Windels.

AN ACT

**CONCERNING THE USE OF RANKED VOTING METHODS, AND, IN CONNECTION THEREWITH,
AUTHORIZING CITIES AND SPECIAL DISTRICTS TO USE RANKED VOTING.**

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. 1-1-104, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

1-1-104. Definitions. As used in this code, unless the context otherwise requires:

(34.4) "RANKED VOTING METHOD" MEANS A METHOD OF CASTING AND TABULATING VOTES THAT ALLOWS ELECTORS TO RANK THE CANDIDATES FOR AN OFFICE IN ORDER OF PREFERENCE AND USES THESE PREFERENCES TO DETERMINE THE WINNER OF THE ELECTION. "RANKED VOTING METHOD" INCLUDES INSTANT RUNOFF VOTING AND CHOICE VOTING OR PROPORTIONAL VOTING AS DESCRIBED IN SECTION 1-7-1003.

SECTION 2. Article 7 of title 1, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW PART to read:

PART 10
RANKED VOTING METHODS

1-7-1001. Short title. THIS PART 10 SHALL BE KNOWN AND MAY BE CITED AS THE "VOTER CHOICE ACT".

1-7-1002. Ranked voting methods - report - definitions. (1) AS USED IN THIS PART 10, UNLESS THE CONTEXT OTHERWISE REQUIRES, "LOCAL GOVERNMENT"

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

MEANS A STATUTORY CITY OR TOWN, OR A SPECIAL DISTRICT CREATED PURSUANT TO ARTICLE 1 OF TITLE 32, C.R.S.

(2) A LOCAL GOVERNMENT MAY CONDUCT AN ELECTION USING A RANKED VOTING METHOD IF:

(a) THE USE OF THE RANKED VOTING METHOD IN THE LOCAL GOVERNMENT IS NOT PROHIBITED BY THE CHARTER OF THE LOCAL GOVERNMENT; AND

(b) THE ELECTION IS CONDUCTED WITH A SYSTEM OF CASTING, RECORDING, AND TABULATING VOTES THAT IS CAPABLE OF CONDUCTING THE ELECTION USING RANKED VOTING AND THAT HAS BEEN APPROVED BY THE GOVERNING BODY AND THE DESIGNATED ELECTION OFFICIAL OF THE LOCAL GOVERNMENT.

(3) THE SECRETARY OF STATE SHALL SUBMIT A REPORT TO THE STATE, VETERANS, AND MILITARY AFFAIRS COMMITTEES, OR ANY SUCCESSOR COMMITTEES, OF THE HOUSE OF REPRESENTATIVES AND THE SENATE NO LATER THAN FEBRUARY 15, 2011, THAT INCLUDES, BUT IS NOT LIMITED TO:

(a) AN ASSESSMENT OF ALL ELECTIONS CONDUCTED USING RANKED VOTING METHODS BY LOCAL GOVERNMENTS IN ACCORDANCE WITH THIS PART 10 AND BY HOME RULE CITIES OR CITIES AND COUNTIES IN ACCORDANCE WITH THEIR CHARTERS FROM THE EFFECTIVE DATE OF THIS SECTION THROUGH THE GENERAL ELECTION OF NOVEMBER 2010;

(b) RECOMMENDATIONS FOR CHANGES TO STATUTES, RULES, AND LOCAL VOTING PROCEDURES THAT WOULD BE REQUIRED TO IMPLEMENT RANKED VOTING AS A PERMANENT ALTERNATIVE ELECTION METHOD FOR STATE, FEDERAL, AND LOCAL SPECIAL AND GENERAL ELECTIONS;

(c) AN INVENTORY OF AVAILABLE ELECTION EQUIPMENT NECESSARY FOR CONDUCTING ELECTIONS USING RANKED VOTING METHODS, INCLUDING THE COSTS ASSOCIATED WITH THE EQUIPMENT; AND

(d) ANY RECOMMENDATIONS MADE BY THE DESIGNATED ELECTION OFFICIALS OF LOCAL GOVERNMENTS THAT CONDUCTED AN ELECTION USING A RANKED VOTING METHOD.

1-7-1003. Conduct of elections using ranked voting methods - instant runoff voting - choice voting or proportional voting - reports. (1) A RANKED VOTING BALLOT SHALL ALLOW AN ELECTOR TO RANK AS MANY CHOICES AS THERE ARE CANDIDATES. HOWEVER, IF THE VOTING SYSTEM CANNOT ACCOMMODATE A NUMBER OF RANKINGS EQUAL TO THE NUMBER OF CANDIDATES, THE DESIGNATED ELECTION OFFICIAL MAY LIMIT THE NUMBER OF CHOICES AN ELECTOR MAY RANK TO THE MAXIMUM NUMBER ALLOWED BY THE VOTING SYSTEM; EXCEPT THAT THE NUMBER OF CHOICES SHALL NOT BE LESS THAN THREE.

(2) A RANKED VOTING BALLOT SHALL ALLOW AN ELECTOR TO RANK UP TO TWO WRITE-IN CANDIDATES. A VOTE FOR AN UNQUALIFIED WRITE-IN CANDIDATE SHALL NOT BE CONSIDERED A MARK FOR A CANDIDATE.

(3) (a) IN AN ELECTION IN WHICH ONE CANDIDATE IS TO BE ELECTED TO AN OFFICE, THE RANKED VOTING METHOD SHALL BE KNOWN AS INSTANT RUNOFF VOTING. THE BALLOTS SHALL BE COUNTED IN ROUNDS SIMULATING A SERIES OF RUNOFFS UNTIL TWO CANDIDATES REMAIN OR UNTIL ONE CANDIDATE HAS MORE VOTES THAN THE COMBINED VOTE TOTAL OF ALL OTHER CANDIDATES. THE CANDIDATE HAVING THE GREATEST NUMBER OF VOTES SHALL BE DECLARED THE WINNER.

(b) IN EACH ROUND OF COUNTING BALLOTS IN AN ELECTION USING INSTANT RUNOFF VOTING, EACH BALLOT SHALL BE COUNTED AS A VOTE FOR THE REMAINING CANDIDATE RANKED HIGHEST BY THE ELECTOR, AND THE CANDIDATE WITH THE SMALLEST NUMBER OF VOTES SHALL BE ELIMINATED.

(c) IF TWO OR MORE CANDIDATES TIE FOR THE SMALLEST NUMBER OF VOTES, THE CANDIDATE TO ELIMINATE SHALL BE CHOSEN BY LOT.

(4) IN AN ELECTION IN WHICH MORE THAN ONE CANDIDATE IS TO BE ELECTED TO AN OFFICE IN A MULTIPLE-SEAT DISTRICT OR ON A GOVERNING BODY THAT INCLUDES MULTIPLE AT-LARGE SEATS, A LOCAL GOVERNMENT MAY CONDUCT A RANKED VOTING ELECTION USING THE SINGLE TRANSFERABLE VOTE METHOD, IN WHICH A WINNING THRESHOLD IS CALCULATED BASED ON THE NUMBER OF SEATS TO BE FILLED AND THE NUMBER OF VOTES CAST SO THAT NO MORE THAN THE CORRECT NUMBER OF CANDIDATES CAN WIN. THE BALLOTS SHALL BE COUNTED IN ROUNDS, WITH SURPLUS VOTES TRANSFERRED FROM WINNING CANDIDATES AND CANDIDATES WITH THE FEWEST VOTES ELIMINATED ACCORDING TO THE METHODOLOGY ESTABLISHED BY THE SECRETARY OF STATE BY RULE, UNTIL THE NUMBER OF CANDIDATES REMAINING EQUALS THE NUMBER OF SEATS TO BE FILLED. A LOCAL GOVERNMENT MAY ALSO CONDUCT AN ELECTION PURSUANT TO THIS SUBSECTION (4) USING THE PRINCIPLES OF INSTANT RUNOFF VOTING SPECIFIED IN SUBSECTION (3) OF THIS SECTION TO ENSURE THAT EACH ELECTOR HAS EQUAL VOTING POWER AND THAT AN ELECTOR'S LOWER RANKING OF A CANDIDATE DOES NOT COUNT AGAINST THE CANDIDATE TO WHOM THE ELECTOR GAVE THE HIGHEST RANK.

(5) (a) IN AN ELECTION CONDUCTED USING A RANKED VOTING METHOD, AN EXPLANATION OF RANKED VOTING AND INSTRUCTIONS FOR ELECTORS IN THE FORM APPROVED BY THE SECRETARY OF STATE BY RULE SHALL BE POSTED AT EACH POLLING PLACE AND INCLUDED WITH EACH MAIL-IN BALLOT.

(b) A LOCAL GOVERNMENT THAT CONDUCTS AN ELECTION USING A RANKED VOTING METHOD SHALL CONDUCT A VOTER EDUCATION AND OUTREACH CAMPAIGN TO FAMILIARIZE ELECTORS WITH RANKED VOTING IN ENGLISH AND IN EVERY LANGUAGE IN WHICH A BALLOT IS REQUIRED TO BE MADE AVAILABLE PURSUANT TO THIS CODE AND THE FEDERAL "VOTING RIGHTS ACT OF 1965", 42 U.S.C. SEC. 1973aa-1.

(6) IN AN ELECTION USING A RANKED VOTING METHOD, THE ELECTION JUDGES SHALL NOT COUNT VOTES AT THE POLLING PLACE BUT SHALL DELIVER ALL BALLOTS CAST IN THE ELECTION TO THE CANVASS BOARD, WHICH SHALL COUNT THE VOTES IN ACCORDANCE WITH THIS SECTION AND THE RULES ADOPTED BY THE SECRETARY OF STATE PURSUANT TO SECTION 1-7-1004 (1).

(7) (a) FOR AN ELECTION CONDUCTED USING A RANKED VOTING METHOD, THE

DESIGNATED ELECTION OFFICIAL SHALL ISSUE THE FOLLOWING REPORTS:

(I) A SUMMARY REPORT LISTING THE TOTAL NUMBER OF VOTES FOR EACH CANDIDATE IN EACH ROUND;

(II) A BALLOT IMAGE REPORT LISTING FOR EACH BALLOT THE ORDER IN WHICH THE ELECTOR RANKED THE CANDIDATES, THE PRECINCT OF THE BALLOT, AND WHETHER THE BALLOT IS A MAIL-IN BALLOT; AND

(III) A COMPREHENSIVE REPORT LISTING THE RESULTS IN THE SUMMARY REPORT BY PRECINCT.

(b) THE SECRETARY OF STATE MAY BY RULE ESTABLISH ADDITIONAL REQUIREMENTS FOR THE REPORTS ISSUED PURSUANT TO THIS SUBSECTION (7).

(c) PRELIMINARY VERSIONS OF THE SUMMARY REPORT AND BALLOT IMAGE REPORT SHALL BE MADE AVAILABLE TO THE PUBLIC AS SOON AS POSSIBLE AFTER THE COMMENCEMENT OF THE OFFICIAL CANVASS OF THE VOTE PURSUANT TO SUBSECTION (6) OF THIS SECTION.

1-7-1004. Secretary of state - rules - guidance to local governments. (1) THE SECRETARY OF STATE SHALL ADOPT RULES CONSISTENT WITH SECTION 1-7-1003 AND IN ACCORDANCE WITH ARTICLE 4 OF TITLE 24, C.R.S., ON THE CONDUCT OF ELECTIONS USING RANKED VOTING METHODS. THE RULES SHALL PRESCRIBE THE METHODS AND PROCEDURES FOR TABULATING, AUDITING, AND REPORTING RESULTS IN AN ELECTION USING A RANKED VOTING METHOD.

(2) THE SECRETARY OF STATE SHALL PROVIDE GUIDANCE AND ADVICE TO THE GOVERNING BODIES AND DESIGNATED ELECTION OFFICIALS OF LOCAL GOVERNMENTS OF THE STATE ON THE CONDUCT OF ELECTIONS USING RANKED VOTING METHODS.

SECTION 3. 31-4-102 (1), Colorado Revised Statutes, is amended to read:

31-4-102. Mayor - qualifications and duties. (1) The mayor shall be elected by a plurality of the votes cast for that office at the regular election in the city. He OR SHE shall be a registered elector who has resided within the limits of the city for a period of at least twelve consecutive months immediately preceding the date of the election; except that, in the case of annexation, any person who has resided within the annexed territory for the time prescribed in this subsection (1) shall be deemed to have met the residence requirements for the city to which the territory was annexed. ~~He~~ THE MAYOR shall hold ~~his~~ THE office for the term for which he OR SHE has been elected or qualified. ~~He~~ THE MAYOR shall keep an office at some convenient place in the city, to be provided by the city council, and ~~he~~ shall sign all documents which by statute or ordinance may require his OR HER signature.

SECTION 4. Part 6 of article 10 of title 31, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

31-10-617. Ranked voting methods. (1) NOTWITHSTANDING ANY PROVISION OF THIS ARTICLE TO THE CONTRARY, A MUNICIPALITY MAY USE A RANKED VOTING METHOD, AS DEFINED IN SECTION 1-1-104 (34.4), C.R.S., TO CONDUCT A REGULAR

ELECTION TO ELECT THE MAYOR OR MEMBERS OF THE GOVERNING BODY OF THE MUNICIPALITY IN ACCORDANCE WITH SECTION 1-7-1003, C.R.S., AND THE RULES ADOPTED BY THE SECRETARY OF STATE PURSUANT TO SECTION 1-7-1004 (1), C.R.S.

(2) A MUNICIPALITY CONDUCTING AN ELECTION USING A RANKED VOTING METHOD MAY ADAPT THE REQUIREMENTS OF THIS ARTICLE, INCLUDING REQUIREMENTS CONCERNING THE FORM OF THE BALLOT, THE METHOD OF MARKING THE BALLOT, THE PROCEDURE FOR COUNTING BALLOTS, AND THE FORM OF THE ELECTION JUDGES' CERTIFICATE, AS NECESSARY FOR COMPATIBILITY WITH THE RANKED VOTING METHOD.

SECTION 5. Part 8 of article 1 of title 32, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

32-1-805.5. Ranked voting methods. (1) NOTWITHSTANDING ANY PROVISION OF THIS ARTICLE TO THE CONTRARY, A SPECIAL DISTRICT MAY USE A RANKED VOTING METHOD, AS DEFINED IN SECTION 1-1-104 (34.4), C.R.S., TO CONDUCT A REGULAR ELECTION TO ELECT DIRECTORS OF THE SPECIAL DISTRICT IN ACCORDANCE WITH SECTION 1-7-1003, C.R.S., AND THE RULES ADOPTED BY THE SECRETARY OF STATE PURSUANT TO SECTION 1-7-1004 (1), C.R.S.

(2) A SPECIAL DISTRICT CONDUCTING AN ELECTION USING A RANKED VOTING METHOD MAY ADAPT THE REQUIREMENTS OF THE "UNIFORM ELECTION CODE OF 1992", ARTICLES 1 TO 13 OF TITLE 1, C.R.S., INCLUDING REQUIREMENTS CONCERNING THE FORM OF THE BALLOT, THE METHOD OF MARKING THE BALLOT, THE PROCEDURE FOR COUNTING BALLOTS, AND THE FORM OF THE ELECTION JUDGES' CERTIFICATE, AS NECESSARY FOR COMPATIBILITY WITH THE RANKED VOTING METHOD.

SECTION 6. Effective date. This act shall take effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly that is allowed for submitting a referendum petition pursuant to article V, section 1 (3) of the state constitution, (August 6, 2008, if adjournment sine die is on May 7, 2008); except that, if a referendum petition is filed against this act or an item, section, or part of this act within such period, then the act, item, section, or part, if approved by the people, shall take effect on the date of the official declaration of the vote thereon by proclamation of the governor.

Approved: May 27, 2008