



Legislative Council Staff
Nonpartisan Services for Colorado's Legislature

Fiscal Note

Drafting Number: LLS 21-0138 Date: February 18, 2021
Prime Sponsors: Rep. Kennedy; Arndt Bill Status: House SCMVA
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Bill Topic: RANKED CHOICE VOTING IN NONPARTISAN ELECTIONS

- Summary of Fiscal Impact:
[X] State Revenue [ ] TABOR Refund
[X] State Expenditure [X] Local Government
[ ] State Transfer [ ] Statutory Public Entity

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

Appropriation Summary: For FY 2021-22, this bill requires an appropriation of \$1.0 million and 0.8 FTE to the Secretary of State.

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

Table 1
State Fiscal Impacts Under HB 21-1071

Table with 4 columns: Category, Sub-category, Budget Year FY 2021-22, and Out Year FY 2022-23. Rows include Revenue (Cash Fund, Total Revenue), Expenditures (Cash Fund, Centrally Appropriated, Total Expenditure, Total FTE), Transfers, and TABOR Refund.

## Summary of Legislation

Starting in January 2023, this bill allows municipal elections utilizing instant runoff voting (IRV) to be conducted by a county clerk as a part of a coordinated election. The Secretary of State (SOS) is required to establish the rules, requirements, and specifications for a voting system allowing IRV by March 31, 2022. 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

This bill will increase cash fund revenue to the Secretary of State's Office (SOS) by up to \$1,048,589 in FY2021-22, and up to \$144,860 in FY 2022-23. The revenue is from business filing fees, which are deposited into the Department of State Cash Fund. This additional fee revenue is subject to TABOR.

**Fee impact on businesses and professions:** Colorado law requires legislative service agency review of measures which create or increase any fee collected by a state agency. Under current law, the SOS is authorized to adjust fees so that the revenue generated approximates its direct and indirect costs. The SOS is primarily funded through business filing fees. To cover the costs described in the State Expenditures section below, fees will need to be raised to cover all or some of the costs of this bill. The fees affected and the actual amount of fee charges will be set administratively by the SOS based on cash fund balance, total program costs, and the estimated number of professional activities subject to fees.

**State Expenditures**

This bill will increase state expenditures in the SOS by \$1,048,589 and 0.8 FTE in FY 2021-22, and by \$144,860, and 1.0 FTE in FY 2022-23. These costs, paid from the Department of State Cash Fund, are displayed in Table 2 and described below.

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

	FY 2021-22	FY 2022-23
<b>Department of State</b>		
Personal Services	\$48,152	\$57,782
Operating Expenses	\$1,080	\$1,350
Capital Outlay Costs	\$6,200	-
Voting System Licensing	\$74,000	\$70,500
Risk Limiting Audit Software Updates	\$550,000	-
Computer Programming	\$36,800	-
Other Software Updates	\$320,000	-
Centrally Appropriated Costs <sup>1</sup>	\$12,357	\$15,228
FTE – Personal Services	0.8 FTE	1.0 FTE
<b>Total Cost</b>	<b>\$1,048,589</b>	<b>\$144,860</b>
<b>Total FTE</b>	<b>0.8 FTE</b>	<b>1.0 FTE</b>

<sup>1</sup> Centrally appropriated costs are not included in the bill's appropriation.

**Personal services.** The SOS will require an additional 1.0 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. Personal services costs are prorated for the General Fund pay date shift and the bill's September effective date.

**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.

**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 \$500,000. 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 \$115/hour, resulting in a cost of \$36,800.

**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 \$40,000, based on 200 hours of programming at a rate of \$200 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 \$30,000. Changes to the election night reporting software are required in order to support IRV, at a one-time cost of \$250,000.

**Centrally appropriated costs.** Pursuant to a Joint Budget Committee policy, certain costs associated with this bill are addressed through the annual budget process and centrally appropriated in the Long Bill or supplemental appropriations bills, rather than in this bill. These costs, which include employee insurance and supplemental employee retirement payments, are estimated to be \$12,357 in FY 2021-22 and \$15,228 in FY 2022-23.

**TABOR refunds.** Under the December 2020 Legislative Council Staff Economic and Revenue Forecast, the state is not expected to collect revenue above the TABOR limit in either FY 2021-22 or FY 2022-23, and refund obligations are not anticipated for these years. This bill does not change these expectations concerning refunds to taxpayers.

## 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. Total costs will vary based on the election and the contract each municipality has with their local county clerk's office.

## Effective Date

The bill takes effect 90 days following adjournment of the General Assembly sine die, assuming no referendum petition is filed.

## State Appropriations

For FY 2021-22, this bill requires an appropriation of \$1,036,232 from the Department of State Cash Fund to the Secretary of State's Office, and 0.8 FTE.

## State and Local Government Contacts

Counties	County Clerks	Information Technology
Law	Municipalities	Personnel
Secretary of State		