

S. 32 Testimony, League of Women Voters of Vermont

By Betty J. Keller, MD

Wednesday, February 1, 2023

Good afternoon, Senators, and thank you for inviting the League of Women Voters of Vermont (LWVVT)* to share our perspective on S 32.

In 1999, the LWVVT worked with the state on a study of Ranked Choice Voting and determined that it would support ranked choice voting for state wide offices.

A study group here in Vermont reassessed alternative voting methods, including score voting, approval voting, Ranked Choice Voting, and the Condorcet method. In 2019 we reaffirmed our support for RCV in statewide elections, and voted to “support election methods at each level of government that encourage participation, are verifiable and auditable and enhance representation for all voters.”

In the spring of 2019, we supported the bill for officials for state-wide offices to be selected by RCV, with the expectation that that was an educational effort to lay groundwork for passing it in 2020. As we all know, there were higher priorities in the spring of 2020 and any efforts for RCV went out the window at that time.

The league supported Burlington’s efforts to change its charter in 2022, and today we are supporting S. 32, which proposes to require the use of ranked choice voting for the presidential primary elections for each major political party.

Chris Hughes from Ranked Choice Voting Resource Center has explained some of the anticipated benefits of Ranked Choice Voting in more typical elections, and I am happy to talk about that in more detail, and have given you references in the written comments I provided.

But this bill, S. 32, is uniquely different from the other ranked choice bills we have supported in the past.

A primary reason the LWVVT supports RCV is because generally it provides, at the end of all the tallying, a winner who has the support of the majority of voters, without fear of “spoilers” splitting the votes of constituents with similar preferences.

But the presidential primary differs

- not only because the winner is only a candidate, not an actual winner of an office,
- but also because there is not necessarily a single winner.

The winners of presidential primaries receive delegates allotted based on their party’s rules, with each party setting its own rules. So this reason of having majority support for the final winner doesn’t even apply. However, there are two separate and crucial reasons to support RCV that are specific to the presidential primary:

- **Voters who have mailed in their ballots may have selected a candidate who has withdrawn from the race before Vermont’s primary election day, making their vote an entirely wasted vote, preventing them from having any say in who might represent them.**

Let’s talk about this one first.

People who don’t like mail-in voting may say, well they should just wait and vote in person. However, there are many reasons we passed legislation to allow mail-in voting, and even before we increased access to mail-in voting, our military and overseas voters had to mail their

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ballots, and were disenfranchised when their favorite candidates withdrew from the race before primary day.

As you have heard, six southern states allow ranked choice voting for their military and overseas voters in a variety of elections. These are states that require a majority to win some of these elections, so they had to have runoffs if there was no majority. These states did not want to change their constitutions to delay their runoffs long enough to get the ballots to the voters and receive them back in time for the election. So they decided to provide ranked choice voting for those voters. Some were forced by the Supreme Court, because all voters must have the same access to voting, and the military and overseas voters were not able to vote in the runoffs.

In Vermont in 2018, there was a bill to allow military and overseas voters to vote in the presidential primary by RCV. The SOS serving at that time noted that that would give GREATER access to voting to those folks than to the general public voting by mail-in ballot, also illegal.

This bill this year, S. 32, provides the benefits of RCV for all voters:

- Military and overseas voters,
- out-of-state college students, or a retiree in Florida for a couple of months,
- Busy people who work full time or provide care for others, or anyone who prefers to vote early at a time convenient for them -
- **But also for same day, in-person voters.**

So here is the second benefit, all voters will have: Whether or not their first choice candidates are still in the race, and whether they are voting in person or by mail: **Ranked Choice Voting allows voters' preferences to impact the allocation of delegates, because if their first choice doesn't garner enough votes to pass the threshold for acquiring delegates, one of two things happens:**

- **Their first choice may receive more votes from ballots of candidates with fewer votes who are eliminated, and then their first choice may qualify for receiving delegates.**
- **Alternatively, if their candidate is eliminated, their vote will be transferred to their next choice, that is still in the running.**

The above are two strong benefits that are specific to the presidential primaries. Ranked Choice Voting has been used for over a century in Australia, well before computers, and with some remote villages. And some states here in the US have been using Ranked Choice Voting for military and overseas voters for years, including in presidential primaries, so it is a time-tested, non-partisan election method.

The Legislative Committee Chair of the Vermont Municipal Clerks and Treasurers Association and our Secretary of State have said that the timeline to implement Ranked Choice Voting for the 2024 Presidential Primary may be too fast. The assistant clerk who has actual experience using it reports Burlington was able to implement it on a faster timeline than expected, and we can learn from their experience.

If you look at the timeline for Burlington's councilor race, and look at implementation in Maine and Alaska, you could reasonably believe that this could be done safely and securely if two conditions are met:

1. if it were enacted, because clerks and poll workers would recognize it as the law of the land and would get to work on making it happen, and

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2. If enough resources were allocated for making the election administration changes required, and for all the education of clerks, poll workers, and the voting public.

However, in those locations, the act of running around getting all the signatures on the petitions, and then educating voters to pass the ballot initiatives, provided a lot of the clerk and voter education, and clerks could feel the public support - they knew it was now the law of the land - so they got on board as soon as it passed.

Even clerks who didn't like it knew that the SOS office and the legislature could not change it, so they needed to get going on implementing it. They were thrust into being on the same "team" as the SOS office. They couldn't dawdle about, arguing about whether or how to transfer ballots securely. They had to help the SOS office figure that out and then put their full support behind implementing it.

We don't have that here in Vermont.

- We have not had all the voter education,
- We do not have a public mandate that clearly shows clerks what the public wants,
- We don't have a mandate from a law created publicly, forcing fast teamwork on decisions
 - on the mechanics of tabulation, including whether ballots are transported or whether rounds are conducted locally with central tabulation, and
 - on what happens in smaller towns that currently count votes by hand, and
- Poll workers may be harder to come by if they fear it is too complicated or don't support it.

The good news is, that means we can take more time making these decisions, but the bad news is that there would never be consensus, so that could mean never making a decision.

I am wondering whether it would be possible to include in the bill a commission or task force to help develop the rules for administration to take some of the pressure off the SOS office. We need clerks to help iron out all the issues that concern them, and we need a mechanism for obtaining and analyzing the information needed for making the election as smooth, safe and secure as possible, with the highest possible voter confidence.

S. 32 could include deadlines, and if those are met, then proceed with the 2024 election, and if they are not, require that RCV must be implemented for the presidential primaries no later than 2028.

Alternatively, a team that gathers public input and includes clerks from different sizes of towns could work on including the mechanics in the bill so that they are in the law, if the law can still be enacted this year with that delay. We want the clerks and the Secretary of State's office to be on the same team, implementing the law, rather having an "us" vs. "them" conflict with clerks feeling pitted against the legislature and Secretary of State's office.

I urge this committee to come up with a plan for this bill, with dates with which you feel confident after hearing all the testimony, and vote unanimously to support this bill for passage this year.

The LWV VT would like to see this bill enacted this year, ideally as a tri-partisan bill and with the support of the governor, so that it is the law of the land. Clerks will start preparing to implement it, funding for the education will be appropriated now, and there will be a reason for people to take advantage of resources to educate themselves about RCV. Even if the bill ends up setting implementation for 2028, education could help get RCV passed at other levels, which might be implemented for elections before 2028.

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There is no point to delaying another year on doing the right thing. In 2019, the delay until 2020 meant that it “fell off the overflowing plate.” Then it was too late because the SOS was retiring. Today, Vermonters are ready.

We are sick of wasted votes and strategic voting.

We are sick of the polarization of our culture.

We are ready to start helping each other to improve our elections to produce results that more closely align with the representation we want.

Vermont is ripe, right now, to accomplish this first step.

Illustrative Anecdote:

About 15 years ago I met a woman from Berkeley, California, – a mathematician and a political activist – who was excited to tell me about some very unexpected consequences they have had in her town since starting ranked choice voting.

She described one season in which two candidates of similar political perspectives and policies were canvassing door-to-door together. People opening the door would be confused wondering, weren't they competing with each other? They were similar enough that they would talk with people about what they had in common, and answer voter's questions, including, aren't you afraid you'll split the vote? Or, doesn't this hurt you, to raise the visibility of your competitor? They would explain that they were friends, and would not vote differently on many things; that they would each be ranking themselves first and this colleague second, and hoped that the voter at the door would similarly choose one of them as their first choice, and list the other one second. Then they would explain RCV again, if the voter was still confused, to show how they wouldn't hurt each other's campaigns. The second choice vote had no impact so long as the first choice vote was still in the running. Then, once their preferred candidate was eliminated, there was no harm - only benefit - to their second choice candidate getting their vote transferred to them.

Now if you picture how that looks at the door, and throughout the campaign season - you can appreciate that the candidates running as a pair got your attention more than just one person in a field of candidates. Also, if you were not of the same ethnicity, having two of them running might make them seem less like an outlier due to race, and have you look at the policies more. Also, the friendly interaction might affect you in a positive way beyond what just reading a brochure of policy points might do.

This has nothing to do with the presidential primaries in Vermont - none of the candidates come here unless they live here. But for states where voters have canvassers constantly coming to their door, you can imagine that their might affect strategy, and especially the come-from-behind candidates might be more collegial than they would be in a plurality election.

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Ranked Choice Voting more generally, and Resources

As I noted earlier, the primary reason the LWVVT supports RCV is because it generally produces a winner supported by the majority of the electorate, which isn't the goal in the presidential primary. But I saw that there were more general questions about ranked choice voting in the testimony last week, so I would like to take this opportunity to respond to some of those.

- **More candidates running, providing more choices for voters**
 - Vermont providing RCV for presidential primaries will have no impact on the number of candidates running for president.
 - But for other elections, there is data to confirm that more candidates, and a wider range of candidates, run in RCV elections.
- **More sincere voting, rather than strategic voting** - how to study this?
 - We can expect that some people currently vote strategically in the primaries if they believe their preferred candidate will not reach the party's threshold for receiving delegates. RCV in the primary would reduce this.
 - People will always try to figure out how to "game a system" - how to get an advantage for "their candidate" over the other candidates.
 - No system is perfect, but RCV is much harder to game.
- **Elected officials more representative of the electorate**
 - Yes, references are below, but not from VT instituting RCV in this federal campaign.
- **Higher voter turnout** <https://fairvote.org/resources/data-on-rcv/#voter-turnout-and-participationnnbsp>
 - Do more voters come to the polls? One factor, and other factors may be more important in any given year.
 - Of those who vote, they may be more likely to vote in more of the races down-ballot
- **Less negative campaigning, more issues-oriented campaigning, and potentially less expensive political campaigns.** This might still apply in presidential primary campaigns, if those running the campaigns figured it out.
 - Surveys are less objective, but see here: <https://www.sciencedirect.com/science/article/abs/pii/S0261379416000299>
- **Greater voter satisfaction and engagement** - again, subjective. <https://www.sciencedirect.com/science/article/abs/pii/S0261379416000299>

Annotated bibliography

Voter Turnout: From Chris Hughes, policy analyst at RCV Resource Center

FairVote's summary of turnout research is the best place to look for this: <https://fairvote.org/resources/data-on-rcv/#voter-turnout-and-participationnnbsp>. They link to all the robust turnout studies done so far. Minneapolis has seen an increase in turnout in recent years, but that's also in line with an overall increase in turnout in all elections. As far as I can tell, RCV may have a modest impact on turnout overall. The things that actually drive turnout are 1) competitiveness of the election; 2) electorate engagement; 3) salience of the election. RCV may help with all three of those factors (increasing the number of candidates running, increasing candidate outreach to voters, making RCV-based elections feel more worthwhile for voters) but the effects are never going to be direct as far as I can tell. FairVote has a report coming out soon that digs in more on the turnout question, too. It sounds like their major finding is that, when RCV is used for down-ballot races, more voters tend to participate in those down-ballot races.

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Representation of Women and People of Color

Multiple studies have shown that RCV improves **representation of women and people of color**.

A 2016 study in California compared cities using RCV with similar cities with plurality voting, controlling for social-economic factors like education and race, political factors like partisanship and voter turnout, as well as election factors like incumbency and public financing of campaigns. This study found that more women and people of color were running and winning elections. This was leading to also an increase in the proportion of women and people of color in elected office, creating more representative local governing bodies. <https://fairvote.app.box.com/v/RCV-Representation-BayArea>

Some theories on why this is include:

- 1) More minority candidates choose to run (<https://fairvote.app.box.com/v/RCV-Representation-BayArea>
The Impact of RCV on representation: How RCV Affects Women and People of Color Candidates in California - demonstrates that this is happening, but the reasons aren't clear) because
 - RCV reduces the concern of splitting votes with candidates of the same background.
 - In districts requiring a majority of votes to win, your pockets don't have to be as deep for campaigning, since there is no additional cost for the "instant runoff."
- 2) Turnout for general elections is highest and most representative, compared to primaries and runoff elections. (We know that turnout for general elections is higher, and tends toward older, whiter, wealthier voters.)
- 3) RCV may decrease negative campaigning, putting the focus more on issues, which may be more inclusive of a variety of perspectives. (<https://www.sciencedirect.com/science/article/abs/pii/S0261379416000299> surveys voter perception of RCV campaigns vs. other campaigns, but doesn't prove that is why the results are more representative.)

A 2021 study by FairVote https://assets.nationbuilder.com/fairvote/pages/20267/attachments/original/1620768112/RCV_Benefits_Communities_of_Color_Report.pdf?1620768112. looked at how candidates fared between rounds in RCV elections, and found that **candidates of color built support between rounds**, that voters of color were more likely to list more preferences, and that candidates of color running against each other only increased the likelihood that a candidate of color would win.

With plurality voting, communities are divided when candidates are told to "wait their turn", so as to not split the vote. **With RCV, every racial and ethnic group studied increased its win rate when multiple candidates of the same background ran.**

Voter Satisfaction

A study in 2013 of the only three cities that had some competitive races and used RCV, and 8 cities using with non-partisan, plurality local elections that were matched demographically to the RCV cities, surveyed voters regarding the tone of local campaigns, and their satisfaction with the campaigns. Recognizing the limitations that they studied only three cities and for only one election cycle, they did report **significantly higher voter satisfaction with the conduct of local campaigns in cities with preferential voting, with fewer voters viewing the campaigns as negative, and fewer voters describing the candidates as frequently criticizing each other.** <https://www.sciencedirect.com/science/article/abs/pii/S0261379416000299>

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*** League of Women Voter of Vermont (LWVVT)**

For those of you unfamiliar with League of Women Voters, we are a non-partisan non-profit grassroots organization whose primary mission is related to Making Democracy Work. LWVUS addresses issues at the national level, state leagues address issues at the state level, and local leagues address issues at the local level. Larger states may have paid staff, but aside from a couple of very part-time consultants managing our website and social media, we are an entirely volunteer organization in Vermont. And we are small enough that all members participate as members of the state league, instead of members of a local league.

Our volunteers promote voter registration and voting, including activities such as

- tabling for voter registration,
- assisting voters at prisons,
- collaborating with the Youth Voter Project, and
- participating in naturalization ceremonies where we assist new citizens in registering to vote.

We keep our eyes open for barriers to voting, and work with legislators and the Secretary of State's office to remove barriers for anyone who is legally eligible to vote. We have supported making registration easier, including

- voter registration when applying for a driver's license for those who will be eligible for the next election;
- same-day registration for first-time voters to vote on election day; and
- mail-in ballots.

Our efforts to help citizens be engaged, informed voters include public forums and educational programs. In recent years, these have included topics such as

- climate change,
- health care access and affordability, and
- ranked choice voting.

In addition to educating voters, the league may also advocate for specific positions. The national league studies and brings to delegates positions to vote on, and state and local leagues may also study and vote to adopt positions.

In some states, gerrymandering is a huge issue that leagues address, and it could be an issue for election of our state legislators, but with only one US House Representative for the state, we have focussed on other aspects of elections to

- encourage voter participation and voter engagement,
- promote sincere voting over strategic voting,
- provide the broadest voter representation possible, and
- provide elected officials that best represent the choices of voters.