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# OHIO LEGISLATIVE SERVICE COMMISSION

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135<sup>th</sup> General Assembly

## Bill Analysis

**Version:** As Introduced

**Primary Sponsors:** Reps. Wiggam and Swearingen

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### SUMMARY

- Prohibits the use of ranked choice voting in any federal, state, or local election in Ohio.

### DETAILED ANALYSIS

#### Ranked choice voting

The bill prohibits ranked choice voting from being used in determining the nomination or election of any candidate for federal, state, or local office in Ohio.

The bill defines “ranked choice voting” as:

a voting method that allows electors to rank candidates for nomination or election to an office in order of preference and has ballots cast to be tabulated in multiple rounds following the elimination of a candidate until a single candidate receives the majority of the votes cast or until the number of candidates nominated or elected equals the number of offices to be filled, as applicable.<sup>1</sup>

Ranked choice voting also often is called “instant runoff voting.” It allows voters to rank three or more candidates from most preferred to least preferred. Tabulation (vote counting) proceeds in rounds – the number one choices counted in the first round – such that in each round, one or more candidates are nominated or elected or a last-place candidate is defeated. In the second round, defeated candidates are removed and the second choices are tabulated, and so on. Votes are transferred from nominated, elected, or defeated candidates to the voter’s next ranked candidate or candidates in order of preference. Tabulation ends when a candidate

<sup>1</sup> R.C. 3501.41.

receives the majority of the votes cast or when the number of candidates nominated or elected equals the number of offices to be filled, as applicable.

See “**About ranked choice voting**,” below for more information about this system, including an example of a ranked-choice election. This analysis uses the term ranked choice voting to include instant runoff voting.

### **Ranked choice voting in Ohio**

Existing state law does not contemplate the use of ranked choice voting for any election. The required ballot format and counting method under the Revised Code would not accommodate ranked choice voting.<sup>2</sup> However, the Ohio Supreme Court has ruled that a municipal corporation or chartered county can use its home rule powers under the Ohio Constitution to conduct municipal or county elections using ranked choice voting.<sup>3</sup> It appears that currently, no local government in Ohio uses ranked choice voting. But, five Ohio cities have used ranked choice voting – then called proportional representation – for city council elections during some period in the past: Ashtabula (1915-1929), Cleveland (1923-1931), Cincinnati (1925-1957), Hamilton (1926-1960), and Toledo (1935-1949).<sup>4</sup>

Therefore, the bill may not be enforceable against municipal corporations and charter counties. Under the Ohio Constitution, municipal corporations and charter counties have the authority to exercise all powers of local self-government.<sup>5</sup>

The exact scope of “all powers of local self-government” has not been defined by the courts, but cases have established standards for determining what the term includes. The Ohio Supreme Court has stated that local self-government authority includes “such powers of government as, in view of their nature and the field of their operation, are local and municipal in character.”<sup>6</sup> The Court also has stated that local self-government authority “relates solely to the government and administration of the internal affairs of the municipality.”<sup>7</sup>

The Supreme Court has specifically found that municipal corporations may use their home rule authority to conduct ranked choice voting.<sup>8</sup>

## **About ranked choice voting**

### **Overview**

Ranked choice voting is a method of holding an election that allows a voter to rank three or more candidates on the ballot from favorite to least favorite. If the voter’s favorite candidate

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<sup>2</sup> R.C. 3505.03, 3505.04, 3505.10, 3505.27, 3505.33, 3513.12, 3513.14, and 3513.21, not in the bill.

<sup>3</sup> *State ex rel. Sherrill v. Brown*, 155 Ohio St. 607 (1951).

<sup>4</sup> Kathleen L. Barber, *Proportional Representation and Election Reform in Ohio* (Ohio State University Press 1995).

<sup>5</sup> Ohio Constitution, Article XVIII, Section 3; art. X, sec. 3.

<sup>6</sup> *State ex rel. Toledo v. Lynch*, 88 Ohio St. 71, 97 (1913).

<sup>7</sup> *Beachwood v. Bd. of Elections of Cuyahoga Cty.*, 167 Ohio St. 369, 371 (1958).

<sup>8</sup> *Supra*, n. 3.

cannot win, the vote is then transferred to the voter’s next favored candidate. In a crowded field of candidates, the total vote might be split several ways, with no candidate receiving a majority vote. Ranked choice voting allows a single candidate to achieve a majority vote after multiple rounds of counting by systematically eliminating the least popular candidates and reassigning their votes to the remaining candidates based on the voters’ indicated preferences.

In a race in which multiple seats are to be filled, such as an at-large city council race, the voter currently is instructed to select as many candidates as there are seats. Under a ranked choice voting system, the voter instead would rank all of the candidates, and votes would be transferred from the least popular candidates until the most popular candidates are identified as winning the available seats.

Ranked choice voting can be conducted by a variety of counting methods, such as alternative vote, single transferrable vote, and multiple transferrable vote, but the same basic voting procedure applies to all of these methods. For more information about the counting methods that are included under the umbrella of ranked choice voting, along with examples of jurisdictions that use those methods, see the Council of State Governments article, [Ranked Choice Voting: What, Where, Why & Why Not](#).<sup>9</sup>

### Example

In this example, a mayoral election is conducted using ranked choice voting – specifically, the alternative vote method – to determine the winner. Four candidates for mayor appear on the ballot at the general election (candidates A, B, C, and D), and a candidate needs a majority vote (50% + 1 vote) to win.

Imagine that a voter’s first choice is Candidate D, but the voter also knows that Candidate D is not very popular and is unlikely to win. If Candidate D cannot win, the voter would prefer Candidate B over candidates A and C. Under Ohio’s current voting system, the voter would have to choose between supporting Candidate D or Candidate B on the ballot. Under ranked choice voting, the voter instead could fill out the ballot as follows:

Ballot for Mayor of City	
Candidate	Voter’s ranking from 1-4, with 1 being the favorite
A	4
B	2
C	3
D	1

<sup>9</sup> Council of State Governments, [Ranked Choice Voting: What, Where, Why & Why Not](#) (March 21, 2023), available via a [google.com](#) keyword search for “CSG ranked choice voting.” See also Ballotpedia, [Ranked-choice voting \(RCV\)](#), available at [ballotpedia.org](#) via a keyword search for “ranked choice voting.”

A total of 1,000 ballots are cast in the election. In the first round of vote counting, for each candidate, the election officials count the number of ballots that list that candidate as the first choice. The results are:

First round results		
Candidate	First choice	Percentage
A	400	40%
B	250	25%
C	200	20%
D	150	15%
<b>Total votes</b>	<b>1,000</b>	<b>100%</b>

Under Ohio's existing system, counting would end at this stage, and Candidate A would win by virtue of receiving the most votes at 40%, although no candidate received a majority vote. But, under ranked choice voting, counting continues using voter rankings until a candidate achieves a majority. Before the second round of counting, Candidate D, the candidate with the least votes, is eliminated. The 150 voters who listed Candidate D as first choice have their votes transferred to their second choice candidates. Ten voters listed Candidate A as second choice, 110 voters listed Candidate B as second choice, and 30 voters listed Candidate C as second choice.

Second round results				
Candidate	First choice	Second choice transfers from Candidate D	Total	Percentage
A	400	+ 10	410	41%
B	250	+ 110	360	36%
C	200	+ 30	230	23%
D	Eliminated, 150 votes transferred to other candidates			
<b>Total votes</b>	<b>1,000</b>			<b>100%</b>

After the second round, Candidate C is eliminated as the remaining candidate with the least votes. For the third round, the 230 votes for Candidate C are transferred to each voter's next preferred candidate (the voter's second or third choice) – 60 votes to Candidate A and 170 to Candidate B.

Third round results					
Candidate	First choice	Second choice transfers from Candidate D	Second or third choice transfers from Candidate C	Total	Percentage
A	400	+ 10	+ 60	470	47%
B	250	+ 110	+ 170	530	53%
C	Eliminated, 230 votes transferred to other candidates				
D	Eliminated, 150 votes transferred to other candidates				
<b>Total votes</b>	<b>1,000</b>				<b>100%</b>

After the third round of counting, Candidate B wins the election by achieving a majority of the votes cast in the race. Candidate B was not most voters' first choice, but based on the rankings, Candidate B was more popular than Candidate A. As noted above, if ranked choice voting were not used, Candidate A would have been the winner.

## HISTORY

Action	Date
Introduced	11-04-24