

Ranked Choice Voting

Oregon HB 2004 Fact Sheet (Amended)

Updated Tuesday May 16th, 2023

HB 2004:

- **Refers Ranked Choice Voting (RCV) to voters** for adoption for many federal and partisan statewide primary and general elections by 2028 and enables municipalities to use RCV for local elections. Does not apply to state legislature or judges.
- RCV requires centralized tabulation of ballots. **Takes authority to locally tally and audit RCV elections away from County Clerks.**
- **Results would not be available until a full month after election** day according to the Association of County Clerks, which opposes the Act.

RCV Constitutional Compliance Issues - Equal Elections:

- The [Oregon Constitution, Article 1](#) states that "No law shall be passed granting to any citizen or class of citizens privileges, or immunities, which, upon the same terms, shall not equally belong to all citizens." and that "All elections shall be free and equal."
- There are [several ways](#) in which **the RCV tally does not treat all voters equally, and the system does not ensure all voters an [equally weighted vote](#).**
- In RCV, **some voters whose favorite does not win will have their next choice counted, others will not**, even if they had another candidate ranked and even if their other rankings could have made a difference.
- In RCV, **voters are at a mathematical disadvantage if their vote transfers later in the process, or not at all.** In some cases this can lead to large numbers of people's votes backfiring, resulting in a worse outcome for them than if they hadn't voted at all. ([Monotonicity](#) and Participation Criteria failures.)
- A [study](#) analyzing 98 RCV elections from 2006 to 2019 found that in races that required multiple rounds, **over 10% of ballots were unable to be counted in the final round** either due to the order of elimination or because they were voided due to voter errors.
- [Studies consistently show](#) that **lower income and minority voters are more likely to cast void and exhausted ballots** under RCV.

RCV is incompatible with local tabulation:

- **Oregon law currently requires ballots be counted locally**, by the County Clerk, as an election integrity measure and requires precinct level results to be published.
 - [ORS 254.485](#): "ballots shall be tallied and returned by precinct."
 - [ORS 254.485](#): "A person other than the county clerk, a member of a counting board or any other elections official designated by the county clerk may not tally ballots under this chapter."
- The new **amendments to HB 2004 remove these election security and transparency requirements** from state law and **require ballots be centrally tallied** by the Secretary of State.
- **Most rankings given are never counted in RCV**, so returning tallied results by precinct in RCV is impossible due to the mechanics of the method.
- Representatives of the **Oregon Association of County Clerks testified** to the legislature that "Elections should be accessible, simple, affordable, predictable, secure, auditable, and yield timely and accurate results. RCV does none of these things."

Ranked Choice Voting

Oregon HB 2004 Fact Sheet (Amended)

Updated Tuesday May 16th, 2023

HB 2004:

- Refers Ranked Choice Voting (RCV) to voters for adoption for most federal and partisan statewide primary and general elections by 2028 and enables municipalities to use RCV for local elections. Does not apply to state legislature or judges.
- Takes authority to locally tally and audit RCV elections away from County Clerks and gives it to the Secretary of State. RCV requires fully centralized tabulation of ballots.
- Results would not be available until a full month after election day according to the Association of County Clerks, which opposes the Act.

RCV Constitutional Compliance Issues - Equal Elections:

- The [Oregon Constitution, Article 1](#) states that "No law shall be passed granting to any citizen or class of citizens privileges, or immunities, which, upon the same terms, shall not equally belong to all citizens." and that "All elections shall be free and equal." There are [several ways](#) in which the Ranked Choice Voting tally does not treat all voters equally, and where the system does not ensure that all voters have an [equally weighted vote](#).
- In RCV, some voters whose favorite does not win will have their next choice counted, others will not, even if they had another candidate ranked and even if their other rankings could have made a difference.
- In RCV, voters are at a mathematical disadvantage if their vote transfers later in the process, or not at all. In some cases this can lead to large numbers of people's votes backfiring, resulting in a worse outcome for them than if they hadn't voted at all. ([Monotonicity](#) and Participation Criteria failures.)
- A [study](#) analyzing 98 RCV elections from 2006 to 2019 found that in races that required multiple rounds, over 10% of ballots were unable to be counted in the final round either due to the order of elimination or because they were voided due to voter errors.
- [Studies consistently show](#) that lower income and minority voters are more likely to cast void and exhausted ballots under RCV's complex balloting and tabulation process.

RCV is incompatible with local tabulation:

- Oregon law currently requires ballots be counted locally, by the County Clerk, as an election integrity measure. The law also requires precinct level results to be published.
 - [ORS 254.485](#): "ballots shall be tallied and returned by precinct."
 - [ORS 254.485](#): "A person other than the county clerk, a member of a counting board or any other elections official designated by the county clerk may not tally ballots under this chapter."
- The new amendments to HB 2004 remove these election security and transparency requirements from state law and require ballots be centrally tallied by the Secretary of State.
- Most rankings given are never counted in RCV, so returning tallied results by precinct in RCV is impossible due to the mechanics of the method.
- Representatives of the Oregon Association of County Clerks testified to the legislature that "Elections should be accessible, simple, affordable, predictable, secure, auditable, and yield timely and accurate results. RCV does none of these things."

Ranked Choice Voting

Oregon HB 2004 and 3509 Fact Sheet

HB 2004: establishes Ranked Choice Voting (RCV) for federal and partisan statewide primary and general elections by 2026 and enables municipalities to use RCV for local elections.

HB 3509: establishes RCV for all primary and general elections by 2025.

RCV Constitutional Compliance Issues - Equal Elections:

- The [Oregon Constitution, Article 1](#) states that "No law shall be passed granting to any citizen or class of citizens privileges, or immunities, which, upon the same terms, shall not equally belong to all citizens." and that "All elections shall be free and equal." There are [several ways](#) in which the Ranked Choice Voting tally does not treat all voters equally, and where the system does not ensure that all voters have an [equally weighted vote](#).
- In RCV, some voters whose favorite does not win will have their next choice counted, others will not, even if they had another candidate ranked. Voters are at a mathematical disadvantage if their vote transfers later in the process, or not at all. In some cases this can lead to large numbers of people's votes backfiring, resulting in a worse outcome for them than if they hadn't voted at all. ([Monotonicity](#) and Participation Criteria failures.)
- A [study](#) analyzing 98 RCV elections from 2006 to 2019 found that in races that required multiple rounds, over 10% of ballots were unable to be counted in the final round either due to the order of elimination or because they were voided due to voter errors.
- [Studies consistently show](#) that lower income and minority voters are more likely to cast void and exhausted ballots under RCV's complex balloting and tabulation process.

RCV Legal Compliance Issues - Local Tabulation:

- Oregon law requires that ballots be counted locally as an election integrity measure:
 - [ORS 254.485](#): "Ballots may be tallied by a vote tally system or by a counting board. A counting board may tally ballots at the precinct or in the office of the county clerk. In any event, the ballots shall be tallied and returned by precinct."
 - [ORS 254.485](#): "A person other than the county clerk, a member of a counting board or any other elections official designated by the county clerk may not tally ballots under this chapter."
- For legal RCV implementation, Oregon would have to remove these election security and transparency requirements from state law, which HB 2004 and 3509 does not do.
- Benton County, which uses RCV currently, is not in compliance with this law, as their precinct results only return 1st choice totals and do not tally the full ballots. Tallying ballots in RCV requires completing all rounds of tabulation, not just the first step.
- RCV requires centralized tabulation to determine which rankings will ultimately be counted and to determine the order of elimination before full results can be "returned".
- Most rankings given are never counted in RCV, so returning tallied results by precinct in RCV is impossible due to the mechanics of the method. Fully tallying precinct results would make those results impossible to aggregate.
- To implement RCV practically, ballots need to be tallied by a central authority in a central location. Multiple representatives of the Oregon Association of County Clerks testified to the legislature on March 16th, 2023 that RCV would require tabulation by a "third party". "Elections should be accessible, simple, affordable, predictable, secure, auditable, and yield timely and accurate results. RCV does none of these things."
- County Clerks, including those who testified against RCV, have the right under ORS 254.485 to refuse to authorize a third party to tabulate their ballots, which would render RCV impossible to implement statewide, or across affected county lines.