

# STATE OF NEW YORK

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3608

2023-2024 Regular Sessions

## IN ASSEMBLY

February 3, 2023

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Introduced by M. of A. THIELE -- read once and referred to the Committee on Election Law

AN ACT to create a pilot program to test a ranked choice voting method of elections; and providing for the repeal of such provisions upon expiration thereof

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Legislative findings. The current system of voting often  
2 results in the election of a candidate who does not have the majority  
3 support of the electorate when there are three or more candidates  
4 running for an elective office. Further, where there are three or more  
5 candidates for an elective office, voters often will not vote for their  
6 preferred candidate to avoid "wasting" their vote on a "spoiler" candi-  
7 date. Rather, they will vote against a candidate they dislike, by  
8 voting for a leading candidate that they perceive as the lesser of two  
9 evils. The result of the current system in multi-candidate races can be  
10 the election of candidates who lack majority support.

11 The ranked choice voting method provides for the majority election for  
12 elective offices. Ranked choice voting gives voters the option to rank  
13 candidates according to the order of their choice. If no candidate  
14 obtains a majority of first-choice votes, then the candidate receiving  
15 the fewest first-choice votes is eliminated. Each vote cast for the  
16 eliminated candidate shall be transferred to the candidate who was the  
17 voter's next choice on the ballot. The process is continued until a  
18 candidate receives a majority of votes.

19 There are several potential benefits to the ranked choice voting meth-  
20 od. First, voters are free to mark their ballot for the candidate they  
21 truly prefer without fear that their choice will help elect their least  
22 preferred candidate. Second, it ensures that the elected candidate has  
23 true majority support. In addition, the ranked choice voting method will  
24 (1) promote higher voter turnout, and (2) encourage positive campaign-

EXPLANATION--Matter in italics (underscored) is new; matter in brackets  
[-] is old law to be omitted.

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ing, since candidates will seek second-choice and third-choice votes from voters and will therefore be less likely to attack other candidates and alienate voters that support other candidates as their first choice. In situations where runoffs are already required, it will eliminate the need for a second runoff election, with its increased costs and lower voter turnout.

The ranked choice voting method has been the subject of increasing interest across the nation. It has already been adopted by local referenda in California, Vermont, and Massachusetts. It is under consideration in many other states.

It is the purpose of this act to permit the use of the ranked choice voting method on a trial basis in certain local elections in years 2026 and 2027. This pilot program would permit the state legislature to evaluate the broader application of the instant runoff voting method to elections in New York state.

§ 2. Definitions. 1. "Ranked choice voting method" shall mean a method of casting and tabulating votes that simulates the ballot counts that would occur if all voters participated in a series of runoff elections, whereby the voters rank candidates according to the order of their choice and, if no candidate has received a majority of votes cast, then the candidate with the fewest first choice votes is eliminated and the remaining candidates advance to another counting round. In every round, each ballot is counted as one vote for the highest ranked advancing candidate.

2. "Local government" shall mean a county, city, town, village, or school district.

§ 3. Pilot program. 1. The state board of elections shall select local governments in which to conduct a pilot program during the 2026 and 2027 elections for local office using ranked choice voting. The state board shall select up to ten local governments in 2026 and up to ten local governments in 2027.

2. In selecting local governments the state board shall seek diversity of population size, regional location, and demographic composition. The pilot program shall require the approval of the county board of elections where said county board conducts the election for the local government. Said pilot program shall also require the approval of the local government that has been selected for the pilot program.

3. The state board shall monitor the pilot program and issue a report with its findings and recommendations to the state legislature by April 1, 2028.

4. The state board shall implement the necessary regulations in order to implement this act within ninety days after it shall have become law.

§ 4. Ranked choice voting method; ballots. 1. For elections subject to the ranked choice voting method, the ballot must be simple and easy to understand and allow a voter to rank candidates in order of choice. A voter may include no more than one write-in candidate among that voter's ranked choices for each office. If feasible, ballots must be designed so that a voter may mark that voter's first choices in the same manner as that for offices not elected by the ranked choice voting method.

2. Instructions on the ballot must conform substantially to the following specifications, although subject to modification, based on ballot design and voting machine:

"Vote for candidates by indicating your first-choice candidates in order of preference. Indicate your first choice by marking the number "1" beside a candidate's name, your second choice by marking the number "2" beside a candidate's name, your third choice by marking the number

1 "3" beside a candidate's name and so on, for as many choices as you  
2 wish. You may choose to rank only one candidate, but ranking additional  
3 candidates will not hurt the chances of your first-choice candidate. Do  
4 not mark the same number beside more than one candidate. Do not skip  
5 numbers."

6 3. A sample ballot for an election subject to the ranked choice voting  
7 method must illustrate the voting procedure for the ranked choice voting  
8 method. Such a sample ballot must be included with each absentee ballot.

9 4. The appropriate board of elections shall ensure that the necessary  
10 voting system, vote tabulation system, or other similar or related  
11 equipment shall be available to accommodate the ranked choice voting  
12 method where the ranked choice voting method is required by this act.

13 § 5. Ranked choice voting method; procedures. The following procedures  
14 shall apply in determining the winner in an election subject to the  
15 ranked choice voting method:

16 1. The first choice marked on each ballot must be counted initially by  
17 election officials. If one candidate receives a majority of the votes  
18 cast, excluding blank and void ballots, that candidate shall be declared  
19 elected.

20 2. If no candidate receives a majority of first-choice votes cast at  
21 the end of the initial count, the candidate receiving the fewest first-  
22 choice votes shall be eliminated. Each vote cast for the eliminated  
23 candidate shall be transferred to the candidate who was the voter's next  
24 choice on the ballot.

25 3. Candidates with the fewest votes shall continue to be eliminated,  
26 with the votes for such candidates transferred to the candidate who was  
27 each voter's next choice on the ballot until a candidate receives a  
28 majority of the votes cast, excluding blank and void ballots. When a  
29 candidate receives a majority of the votes cast, that candidate shall be  
30 declared the winner.

31 4. If a ballot has no more available choices ranked on it, that ballot  
32 must be declared exhausted. Where a ballot skips one or more numbers,  
33 the ballot must be declared exhausted when the skipping of numbers is  
34 reached. A ballot with the same number for two or more candidates must  
35 be declared exhausted when these double numbers are reached.

36 5. In the case of a tie between candidates for last place, and thus  
37 elimination, occurring at any stage in the tabulation, the tie shall be  
38 resolved so as to eliminate the candidate who received the least number  
39 of votes at the previous stage of tabulation. In the case of a tie to  
40 which a previous stage does not apply, or such previous stage was also a  
41 tie, the tie shall be resolved by drawing lots. However, if the tie  
42 occurs when there are only two candidates remaining, the tie shall be  
43 resolved in accordance with the provisions of this act.

44 § 6. Voter education. Where an election is subject to the ranked  
45 choice voting method, the appropriate board of elections shall conduct a  
46 voter education campaign on the ranked choice voting system to familiar-  
47 ize voters with the ballot design, method of voting, and advantages of  
48 determining a majority winner in a single election. The board of  
49 elections shall use public service announcements, as well as seek other  
50 media cooperation to the maximum extent practicable.

51 § 7. Construal. All elections held by the ranked choice voting method  
52 pursuant to this act shall be subject to all the other provisions of the  
53 election law and all other applicable laws relating to elections, so far  
54 as is applicable and not inconsistent with this act.

55 § 8. Severability. If any provision of this act or the application  
56 thereof shall for any reason be adjudged by any court of competent

1 jurisdiction to be invalid, such judgment shall not affect, impair, or  
2 invalidate the remainder of this act, but shall be confined in its oper-  
3 ation to the provision thereof directly involved in the controversy in  
4 which such judgment shall have been rendered.

5 § 9. This act shall take effect immediately, and shall remain in full  
6 force and effect until December 31, 2028 when upon such date the  
7 provisions of this act shall expire and be deemed repealed. Effective  
8 immediately, the addition, amendment and/or repeal of any rule or regu-  
9 lation necessary for the implementation of this act on its effective  
10 date are authorized to be made and completed on or before such effective  
11 date.