



Legislative Council Staff

Nonpartisan Services for Colorado's Legislature

Revised Fiscal Note

(replaces fiscal note dated February 18, 2021)

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|-------------------------|-------------------------------------|-----------------------|-------------------------------|
| Drafting Number: | LLS 21-0138 | Date: | March 05, 2021 |
| Prime Sponsors: | Rep. Kennedy; Arndt Sen. Fenberg | Bill Status: | House Finance |
| | | Fiscal Analyst | Sonia Hatfield 303-866-4785 |
| | | March 3, 2021 | Sonia.Hatfield@state.co.us |

Bill Topic: RANKED CHOICE VOTING IN NONPARTISAN ELECTIONS

Summary of Fiscal Impact:

| | |
|---|--|
| <input checked="" type="checkbox"/> State Revenue | <input type="checkbox"/> TABOR Refund |
| <input checked="" type="checkbox"/> State Expenditure | <input checked="" type="checkbox"/> Local Government |
| <input type="checkbox"/> State Transfer | <input type="checkbox"/> Statutory Public Entity |

Beginning in 2023, this bill allows municipal elections using instant runoff voting (IRV) to be conducted as a part of a coordinated election 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 \$580,000 to the Secretary of State.

Fiscal Note Status: This fiscal note reflects the introduced bill, as amended by the House State, Civic, Military, & Veterans Affairs committee.

**Table 1
State Fiscal Impacts Under HB 21-1071**

| | | Budget Year FY 2021-22 | Out Year FY 2022-23 | Out Year FY 2025-26 |
|---------------------|---------------------------|---------------------------|------------------------|------------------------|
| Revenue | Cash Fund | up to \$580,000 | up to \$254,000 | up to \$138,389 |
| | Total Revenue | up to \$580,000 | up to \$254,000 | up to \$138,289 |
| Expenditures | Cash Fund | \$580,000 | \$254,000 | \$125,932 |
| | Centrally Approp. | - | - | \$12,357 |
| | Total Expenditures | \$580,000 | \$254,000 | \$125,932 |
| | Total FTE | - | - | 0.8 FTE |
| Transfers | | - | - | - |
| TABOR Refund | | - | - | - |

¹ Costs are also incurred in FY 2023-24 and FY 2024-25 but have been omitted due to space constraints. See State Expenditures sections.

Summary of Legislation

Starting in January 2023, this bill allows single-county municipal elections using instant runoff voting (IRV) to be conducted by a county clerk as a part of a coordinated election. Starting in January 2025, this option will be made available for municipalities located in multiple counties. The Secretary of State (SOS) is required to establish the rules, requirements, and specifications for a voting system allowing IRV by December 31, 2022 for voting conducted in a single county, and by December 31, 2023 for municipalities in multiple counties. 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 \$580,000 in FY2021-22, up to \$254,000 in FY 2022-23, and up to \$150,000 in future years. 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 \$580,000 in FY 2021-22, and by \$254,000 in FY 2022-23. Expenses continue through FY 2025-26 to fully implement the bill. 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 | FY 2023-24 | FY 2024-25 | FY 2025-26 |
|---|------------------|------------------|------------------|-----------------|------------------|
| Department of State | | | | | |
| Personal Services | - | - | - | - | \$48,152 |
| Operating Expenses | - | - | - | - | \$1,080 |
| Capital Outlay Costs | - | - | - | - | \$6,200 |
| Voting System Licensing | - | \$4,000 | \$70,500 | \$70,500 | \$70,500 |
| Risk Limiting Audit Software | \$550,000 | - | - | - | - |
| Computer Programming | - | - | \$39,360 | - | - |
| Other Software Updates | \$30,000 | \$250,000 | \$40,000 | - | - |
| Centrally Appropriated Costs ¹ | - | - | - | - | \$12,357 |
| Total Cost | \$580,000 | \$254,000 | \$149,860 | \$70,500 | \$138,289 |
| Total FTE | - | - | - | - | 0.8 FTE |

¹ Centrally appropriated costs are not included in the bill's appropriation.

Personal services. The SOS will require an additional 0.8 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. New staff will begin in September 2025 to manage ongoing issues related to IRV voting after the initial implementation of single- and multi-county IRV in municipal elections.

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 \$550,000. 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 \$123/hour, resulting in a cost of \$39,360.

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.

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 \$580,000 from the Department of State Cash Fund to the Secretary of State's Office.

State and Local Government Contacts

| | | |
|--------------------|----------------|------------------------|
| Counties | County Clerks | Information Technology |
| Law | Municipalities | Personnel |
| Secretary of State | | |