



PO BOX 8453, COLUMBIA, SC, 29202, (803) 606-0431, WWW.LWVSC.ORG

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TESTIMONY: H.4590, H.4022, H.4259, H.4260, H.4261, H.4591

## HOUSE JUDICIARY CONSTITUTIONAL LAWS SUBCOMMITTEE

The League of Women Voters of South Carolina (LWVSC) appreciates the opportunity to address this subcommittee on these bills. This testimony is accompanied by a statement from the LWVSC Director for Election Systems and Technology Matthew Saltzman, Ph.D., which we are submitting as a supplement to this statement.

We wish to preface our remarks by saying that our election offices are badly over-burdened. The work itself is technically demanding, funding is often stretched to the breaking point, and barrages of unsupported or poorly supported attacks on the integrity of our elections have had unfortunate impacts on personnel. Any change in election law should be implemented with due consideration for both election workers and voters, allowing adequate time and funding for an orderly transition process.

### H.4590, EARLY VOTING HOURS

The League applauds this bill extending early voting hours to 7:00 PM rather than 6:00 PM for statewide general elections and from 5:00 PM to 7:00 PM for runoff elections and other elections that are not statewide general elections. This will improve voter convenience and access to the polls. It may be especially important in larger counties that are providing few early voting locations, which for many qualified electors leads to extended travel times to vote. Please forward this bill with a favorable recommendation.

### H. 4022, INSTANT RUNOFF VOTING

The League supports this bill, which would permit the use of Instant Runoff Voting (IRV), also known as Ranked Choice Voting (RCV), in municipal elections in South Carolina. This option is already available to South Carolina's overseas voters and should be available to all voters. Allowing municipalities to choose to use this method is a pragmatic step that will help election offices, voters, and candidates who do not have to go through a second election process.

The cost and effort required to conduct runoffs can be especially burdensome for municipalities that have limited election budgets and rely heavily on volunteer labor to conduct elections. This method allows voters to express their wishes through a single poll.

IRV also avoids the scheduling problems inherent in South Carolina's runoff system, which allows only 14 days after an election for a runoff. Fourteen days puts a significant burden on both election offices and voters, especially with

respect to voting by mail.<sup>1</sup> Election offices must race to deal with the demands, and voters – especially those who have disabilities that require their voting by mail – are hard-pressed to meet the tight deadlines.

IRV also would more accurately reflect the will of the voters than the current runoff system. The process continues until winning candidates have the majority of valid votes in the final round of tallying.

IRV is used worldwide, including in Alaska and Maine and in two U. S. counties and 58 cities.<sup>2</sup> It has been adopted in single-winner form since 1908 in Australia. Northern Ireland, New Zealand, and Scotland have all used variations of IRV for many years. It will doubtless be of interest that the MIT Election Lab states that there is little evidence that the method disproportionately advantages or disadvantages either of the major parties. While this bill applies to non-partisan municipal elections, this should nevertheless be of interest because it helps to demonstrate that the method does not skew results in unintended ways.

There is another effect that would be appreciated by many citizens. IRV has the significant advantage of producing more civil campaign rhetoric than we have come to expect in plurality election campaigns, since candidates must compete not just to be a first choice, but a second.<sup>3</sup>

One of the issues arising with IRV is the increased complexity of ballot tabulation.<sup>4</sup> This would undoubtedly be a consideration for hand tabulated calculations. However, South Carolina has sophisticated computer tabulation systems that we have been assured can be programmed to handle that process readily.

It is important to recognize that municipalities that introduce this significant change should proceed with careful planning and extensive voter education. Election offices cannot be expected to make major changes instantly. Also, voters should be informed that while IRV has important benefits, they reduce their personal impact on a final decision should they fail to rank the requisite number of candidates.<sup>5</sup> However, failure to rank all candidates is likely to be a less significant factor in limiting overall voter participation than failure to participate in a runoff election, which typically experiences reduced turnout.

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<sup>1</sup> South Carolina’s runoff system is defective with respect to federal elections (not the municipal elections at issue here) in failing to meet the requirements of the National Voter Registration Act (NVRA), Section 8, which requires that voters be allowed to register up to no fewer than 30 days before an election. SC’s voters must register at least 44 days before our runoffs. While this does not legally impact municipal elections, it does mean that even municipal elections are conducted under conditions that are less than desirable for voter access.

<sup>2</sup> MIT Election Lab, “Instant Runoff Voting,” <https://electionlab.mit.edu/research/instant-runoff-voting>.

<sup>3</sup> Kropf, M. (2021). “Using Campaign Communications to Analyze Civility in Ranked Choice Voting Elections.” *Politics and Governance*, 9(2), 280-292. doi:<https://doi.org/10.17645/pag.v9i2.4293>

<sup>4</sup> Betty Keller, “Pros and Cons of Instant Runoff (Ranked Choice) Voting, The League of Women Voters of the United States, <https://my.lwv.org/vermont/article/pros-and-cons-instant-runoff-ranked-choice-voting>.

<sup>5</sup> Craig M. Burnett and Vladimir Kogan, “Ballot (and voter) ‘exhaustion’ under Instant Runoff Voting: An examination of four ranked-choice election,” *Elsevier Electoral Studies*, Vol. 37:41-49, March 2015. <https://www.sciencedirect.com/science/article/abs/pii/S0261379414001395>.

In summary, we believe that IRV should be an option open to municipalities in South Carolina and we recommend that the subcommittee forward this bill with a favorable recommendation.

## H.4259, HAND COUNT AUDIT ACT

We cannot support this bill, which would allow demands for a “full hand recount” of ballots from any county. This method is not necessary to ensure election integrity and is not prudent fiscally or in terms of election security. However, the League strongly supports evidence-based systems of election audits to protect voter confidence in our elections, as do other respected organizations that have expertise in voting and elections.<sup>6</sup> We especially endorse risk-limiting audits, a well-defined process that has become the gold standard in election verification.<sup>7</sup>

The full hand recount audit of the Maricopa County, Arizona, 2020 election is a useful warning example. It was a prohibitively expensive and deeply flawed effort.<sup>8</sup> The recount took months, costs millions of dollars directly, and led to millions in additional costs through contamination of election equipment that required replacement. Although it should be possible to conduct any audit more competently than the “Cyber Ninjas” of the Maricopa County case, the problems there reflect the underlying defects in this approach. The costs associated with this bill would be prohibitive for many South Carolina’s counties, election reporting could be delayed significantly, and election security would be difficult to protect.

The League of Women Voters of South Carolina strongly recommends rejection of this bill.

## H. 4260, VOTER ACCESS AND TRANSPARENCY ACT

This bill would end no-excuse early voting through repeal of No-excuse Early Voting as specified in §7-13-25. This was introduced in South Carolina very recently and very successfully. There is no reason to repeal this convenience for voters.

The bill’s claim of an “inherent right” of every citizen to observe all aspects of the election process would subject voters to potentially threatening behaviors as individuals would be allowed to intrude on all aspect of the process only five feet from voters. Even when these individuals are not confrontational and belligerent (as they have been in some instances and could be here), this is very objectionable. There is no “inherent right” to closely observe the voting process, there is a right to a secret ballot and privacy in the voting process. Election workers too should be protected from unnecessary intrusion on their work.

The League strongly recommends rejection of this bill.

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<sup>6</sup> Verified Voting and Citizens for Election Integrity Minnesota, “Coordinating Audits and Recounts to Strengthen Election Verification,” Nov 2022, <https://verifiedvoting.org/publication/audits-recounts-nov-2022/>.

<sup>7</sup> Verified Voting, “Risk-Limiting Audits,” <https://verifiedvoting.org/audits/whatisrla/>.

<sup>8</sup> Jeremy Duda, “Arizona ‘Audit’: A multitude of unsubstantiated claims and no proof of fraud,” AZ Mirror, 24 Sep 2021. <https://www.azmirror.com/2021/09/24/arizona-audit-a-multitude-of-unsubstantiated-claims-and-no-proof-of-fraud/>.

## H. 4261, CLEAN VOTER ROLL ACT

This bill would transfer responsibility for maintenance of voter rolls from the State Election Commission to county election commissions. Counties would be required to carry out all specified roll maintenance including identification and removal of deceased and non-resident persons, without access to the more extensive resources of the SEC. This is not possible without immense further investment in county election offices. Further, it is far more difficult to maintain essential security in 46 separate databases than in a single unified system. The potential for security breaches would be high.

The bill would also require that a large and complex body of data be provided to any qualified elector at no cost. Someone must pay, and neither election workers nor taxpayers should be at the mercy of these demands.

The bill also requires “proof of citizenship verification” and “signature verification,” neither of which is currently required or permitted under state law, for good reasons. The state currently has a settlement agreement reached with the League of Women Voters in federal court prohibiting use of the unreliable method of signature matching.

Overall, this bill would impose a tremendous administrative burden on counties, one that they have no current capacity to meet. It is fiscally and administratively not feasible, and the League strongly recommends rejection by the Subcommittee.

## H. 4591, RANKED CHOICE VOTING BAN

This bill would prohibit the use of “instant runoff voting” and “ranked choice voting” in any South Carolina election. This would preclude the use of an efficient and cost-effective voting method that is a benefit to both county election offices and voters. Furthermore, a prohibition is not necessary, even if one agrees that this is desirable since this method does not appear to be legally acceptable under current statutes.

Contact: Lynn S. Teague, VP for Issues and Action, LWVSC  
803 556-9802  
teaguelynn@gmail.com