

**DRAFT ONLY
NOT APPROVED FOR
INTRODUCTION**

HOUSE BILL NO. [BILL NUMBER]

Municipal nonpartisan ranked-choice elections.

Sponsored by: Joint Corporations, Elections & Political
Subdivisions Interim Committee

A BILL

for

1 AN ACT relating to municipal elections; creating a pilot
2 program authorizing municipalities to conduct nonpartisan
3 ranked-choice general elections as specified; making
4 conforming amendments; requiring rulemaking; and providing
5 for effective dates.

6

7 *Be It Enacted by the Legislature of the State of Wyoming:*

8

9 **Section 1.** W.S. 22-23-1101 through 22-23-1107 are
10 created to read:

11

12 ARTICLE 11 - NONPARTISAN RANKED-CHOICE ELECTION PILOT

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22-23-1101. Short title.

This article may be cited as the "Municipal Alternate Voting Methods Pilot Project Act."

22-23-1102. Definitions.

(a) As used in this act:

(i) "Candidate amplifier" means the product of:

(A) Two (2) less than the total number of candidates in a given canvassing phase of a multi-candidate race; and

(B) Two hundredths of one percent (0.02%).

(ii) "Canvassing phase" means a phase of the audit function that culminates in the final certification of official election returns.

1 (iii) "Multi-candidate race" means a nonpartisan
2 municipal race where more than two (2) candidates qualify
3 to run for one (1) office or where the number of candidates
4 who qualify for the race exceeds the total number of seats
5 to be filled;

6

7 (iv) "Participating municipality" means a city
8 or town that is participating in the pilot project in
9 accordance with W.S. 22-23-1103;

10

11 (v) "Pilot project" means the municipal
12 alternate voting methods pilot project created in W.S. 22-
13 23-1103;

14

15 (vi) "Recount threshold" means the sum of the
16 candidate amplifier and only one (1) the following:

17

18 (A) For a canvassing phase in which fewer
19 than one hundred (100) valid votes are counted, twenty-one
20 hundredths of one percent (0.21%);

21

22 (B) For a canvassing phase in which at
23 least one hundred (100) but fewer than five hundred (500)

1 valid votes are counted, nineteen hundredths of one percent
2 (0.19%);

3

4 (C) For a canvassing phase in which at
5 least five hundred (500) but less than one thousand (1,000)
6 valid votes are counted, seventeen hundredths of one
7 percent (0.17%);

8

9 (D) For a canvassing phase in which at
10 least one thousand (1,000) but fewer than five thousand
11 (5,000) valid votes are counted, fifteen hundredths of one
12 percent (0.15%);

13

14 (E) For a canvassing phase in which at
15 least five thousand (5,000) but fewer than ten thousand
16 (10,000) valid votes are counted, thirteen hundredths of
17 one percent (0.13%); or

18

19 (F) For a canvassing phase in which ten
20 thousand (10,000) or more valid votes are counted, eleven
21 hundredths of one percent (0.11%).

22

1 *****
2 *****

3 STAFF COMMENT

4
5 The Committee may wish to consider using the existing
6 recount criteria in W.S. 22-16-109 below:

7
8 22-16-109. Recounts.

9
10 (a) The county canvassing board shall make a recount of
11 precinct votes if it appears to the board that a recount is
12 required due to irregularities in that precinct.

13
14 (b) There shall be a recount made of all the votes cast
15 for any office in which the difference in number of votes
16 cast for the winning candidate receiving the least number
17 of votes and the number of votes cast for the losing
18 candidate receiving the greatest number of votes is less
19 than one percent (1%) of the number of votes cast for the
20 winning candidate receiving the least number of votes cast
21 for that office. This recount shall be made in the entire
22 district in which the candidates are standing for election.

23
24 (c) There shall be a recount made of all the votes cast
25 for any office if a losing candidate requests one under
26 provision of W.S. 22-16-110. This recount shall be made in
27 the entire district in which the candidate is standing for
28 election.

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30 *****
31 *****

32
33
34 (vii) "This act" means the Municipal Alternate
35 Voting Methods Pilot Project Act.

36
37 22-23-1103. Municipal alternate voting methods pilot
38 project; creation; participation.

39

1 (a) There is created the municipal alternate voting
2 methods pilot project.

3

4 (b) The pilot project shall begin on [DATE] and shall
5 end on [DATE], and shall only apply to municipal general
6 elections.

7

8 *****
9 **STAFF COMMENT**

10
11 **The Committee will need to determine when the pilot project**
12 **will begin and end.**

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14 *****
15

16 (c) A municipality may participate in the pilot
17 project, in accordance with the requirements of this act
18 and all other applicable provisions of law, during any year
19 that the pilot project is in effect, if, not later than
20 January 1 of the year a municipal general election is to be
21 held, the municipality provides written notice to the
22 secretary of state that:

23

24 (i) The municipality intends to participate in
25 the pilot project for the year specified in the notice; and

26

1 (ii) Includes a document, signed by the county
2 or municipal clerk, stating that the municipality has the
3 resources and capability necessary for the municipality to
4 successfully execute an election under the pilot project.

5

6 (d) The secretary of state shall maintain, in a
7 prominent place on the secretary of state's website, a
8 current list of the municipalities that are participating
9 in the pilot project.

10

11 (e) A participating municipality shall, in accordance
12 with this act, conduct any multi-candidate race during the
13 municipal general election using ranked-choice voting.

14

15 (f) A county clerk or municipal clerk of a
16 participating municipality that will conduct a multi-
17 candidate race under subsection (e) of this section shall
18 not conduct a municipal primary election relating to that
19 race.

20

21 *****

22 *****

23 **STAFF COMMENT**

24

1 Utah's legislation prevents participating municipalities
 2 from conducting primary elections related to multi-
 3 candidate races only. The Committee may wish to consider
 4 whether participating municipalities will have primary
 5 elections for races that are not multi-candidate races. If
 6 the Committee determines that no primary elections will be
 7 held in municipalities participating in the pilot project,
 8 (f) above, W.S. 22-23-1106 and 22-23-1107 will have to be
 9 amended.

10 *****
 11 *****
 12

13 **22-23-1104. Ranked-choice voting.**

14
 15 (a) To vote in a multi-candidate race pursuant to
 16 W.S. 22-23-1103, an elector:

17
 18 (i) Shall indicate, as directed on the ballot,
 19 the name of the candidate who is the elector's first
 20 preference for the office; and

21
 22 (ii) May indicate, as directed on the ballot,
 23 the names of the remaining candidates in order of the
 24 elector's preference.

25
 26 *****
 27 *****

28 **STAFF COMMENT**

29

1 The Committee may wish to consider whether municipal
2 ranked-choice voting should only be used when there are
3 three or more candidates running for office.

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5 *****
6 *****
7

8 (b) The ballot or portion thereof for a multi-
9 candidate race conducted pursuant to W.S. 22-23-1103 shall:

10
11 (i) List each qualified candidate for office;

12
13 (ii) Opposite each candidate's name, include a
14 place where an elector can indicate an elector's vote in
15 order of preference for each candidate;

16
17 (iii) Provide the ability for an elector to
18 enter a write-in candidate's name and indicate the
19 elector's ordered preference for the write-in candidate;
20 and

21
22 (iv) Except as provided in paragraphs (i)
23 through (iii) of this subsection, follow the requirements
24 for nonpartisan ballots for general elections in W.S. 22-6-
25 120 through 22-6-127.

26

1 (c) In a multi-candidate race conducted pursuant to
2 W.S. 22-23-1103, the county or municipal clerk shall
3 conduct the first ballot-counting phase by counting the
4 valid first-preference votes for each candidate. If, after
5 complying with subsection (g) of this section:

6

7 (i) One of the candidates receives more than
8 fifty percent (50%) of the valid first preference votes
9 counted, the county or municipal clerk shall certify the
10 candidate elected; or

11

12 (ii) If, after counting the valid first
13 preference votes for each candidate and after complying
14 with subsection (g) of this section, no candidate receives
15 more than fifty percent (50%) of the valid first preference
16 votes counted, the county or municipal clerk shall conduct
17 the second ballot-counting phase by:

18

19 (A) Excluding from the multi-candidate race
20 the candidate who received the fewest valid first-
21 preference votes counted. In the event of a tie for the
22 fewest valid first-preference votes counted, excluding one
23 (1) of the tied candidates as determined by the county or

1 municipal clerk by lot, in accordance with subsection (h)
2 of this section; and

3
4 (B) Adding to the valid first preference
5 votes counted for the remaining candidates the valid second
6 preference votes cast for the remaining candidates by the
7 electors who cast a valid first preference vote for the
8 excluded candidate. If, after adding the votes in
9 accordance with this subparagraph and complying with
10 subsection (g) of this section, one (1) candidate receives
11 more than fifty percent (50%) of the valid votes counted,
12 the county or municipal clerk shall certify that candidate
13 elected.

14
15 (iii) If, after adding the valid second
16 preference votes in accordance with paragraph (ii) of this
17 subsection and after complying with subsection (g) of this
18 section, no candidate receives more than fifty percent
19 (50%) of the valid votes counted, the county or municipal
20 clerk shall conduct subsequent ballot-counting phases by
21 continuing the process described in paragraph (ii) of this
22 subsection until one (1) candidate receives more than fifty
23 percent (50%) of the valid votes counted.

1

2 (d) The county or municipal clerk shall certify as
3 elected the first candidate who receives more than fifty
4 percent (50%) of the valid votes counted under the process
5 described in subsection (c) of this section.

6

7 (e) A vote is not valid for a particular phase of a
8 multi-candidate race conducted under W.S. 22-23-1103, and
9 for all subsequent phases, if the elector indicates the
10 same numerical rank for more than one (1) candidate for
11 that phase.

12

13 (f) The county or municipal clerk shall order a
14 recount of the valid votes in the applicable ballot-
15 counting phase if one (1) candidate appears to have
16 received more than fifty percent (50%) of the vote and the
17 difference between the number of votes counted for the
18 candidate who received the most valid votes for the
19 applicable ballot-counting phase and the votes counted for
20 any of the other candidates in the race is equal to or less
21 than the product of the following, rounded to the nearest
22 whole number:

23

1 (i) The total number of electors who cast a
2 valid vote that is counted in the applicable ballot-
3 counting phase of the race; and

4

5 (ii) The recount threshold.

6

7 (g) Before excluding a candidate from a multi-
8 candidate race under subsection (c) of this section, the
9 county or municipal clerk shall order a recount of the
10 valid votes counted in the applicable ballot-counting phase
11 if the difference between the number of votes counted for
12 the candidate who received the fewest valid votes in the
13 applicable ballot-counting phase of the race and any other
14 candidate in the race is equal to or less than the product
15 of the following, rounded up to the nearest whole number:

16

17 (i) The total number of electors who cast a
18 valid vote counted in the ballot-counting phase; and

19

20 (ii) The recount threshold.

21

22 *****

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24 **STAFF COMMENT**

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Regarding subsections (f) and (g) above, please see the recount discussion on pages 4 and 5.

(h) For each ballot-counting phase after the first phase, if, after a recount is completed under subsection (g) of this section, two (2) or more candidates tie as having received the fewest valid votes counted at that point in the ballot count, the county or municipal clerk shall eliminate one (1) of those candidates from consideration, by lot, in the following manner:

(i) Determine the names of the candidates who tie as having received the fewest valid votes for that ballot-counting phase;

(ii) Cast the lot in the presence of at least two (2) election officials and any poll watchers who are present and desire to witness the casting of the lot; and

STAFF COMMENT

1 Under W.S. 22-23-808, in special municipal elections, the
2 governing body casts lots instead of using the process
3 above. Please indicate if the Committee would prefer that
4 process.

5
6 *****
7 *****
8

9 (iii) Sign a public document that:

10

11 (A) Certifies the method used for casting
12 the lot and the result of the lot; and

13

14 (B) Includes the name of each individual
15 who witnessed the casting of the lot.

16

17 (j) In a multi-candidate race conducted under W.S.
18 22-23-1103 where more than one (1) candidate is to be
19 elected to a particular office and where the number of
20 candidates who qualify for the race exceeds the total
21 number of seats to be filled for the office, the county or
22 municipal clerk shall count the votes by:

23

24 (i) Except as provided in subsection (k) of this
25 section, counting votes in the same manner as described in

1 subsections (c) through (h) of this section, until a
2 candidate is certified elected;

3

4 (ii) Repeating the process described in
5 subsection (j)(i) of this section for all candidates that
6 are not certified elected until another candidate is
7 certified elected; and

8

9 (iii) Continuing the process described in
10 subsection (j)(ii) of this section until all seats in the
11 race are filled.

12

13 (k) After a candidate in a multi-candidate race where
14 more than one (1) candidate is to be elected to a
15 particular office is certified elected under subsection (j)
16 of this section, the county or municipal clerk shall, in
17 repeating the process described in subsections (c) through
18 (h) of this section to certify the next candidate elected,
19 add to the vote totals the next valid preference vote of
20 each elector whose vote was counted for a candidate already
21 certified elected.

22

23 **22-23-1105. Batch elimination.**

1

2 (a) In any ballot count conducted under W.S. 22-23-
3 1104, the county or municipal clerk may exclude candidates
4 through batch elimination by, instead of excluding only one
5 (1) candidate in a ballot-counting phase, excluding each
6 candidate:

7

8 (i) Where the number of remaining candidates
9 with more valid votes than the candidate to be excluded is
10 greater than or equal to the number of offices to be
11 filled; and

12

13 (ii) Where the number of valid votes counted for
14 that candidate in the phase plus the number of votes
15 counted for all candidates with fewer valid votes in the
16 phase is less than the number of valid votes for the
17 candidate with the next highest amount of valid votes in
18 the phase; and

19

20 (iii) Who has fewer valid votes in the phase
21 than a candidate who is excluded under paragraph (ii) of
22 this subsection.

23

1 (b) The requirement for a recount before excluding a
2 candidate under W.S. 22-23-1104(g) shall not apply to
3 candidates who are excluded through batch elimination under
4 this section.

5

6 *****

7 *****

8 **STAFF COMMENT**

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10 **The Utah legislation was not specific regarding if this**
11 **section applied only to offices with multiple seats. The**
12 **Committee may wish to consider whether this section should**
13 **only apply to such offices.**

14

15 *****

16 *****

17

18 **22-23-1106. Filing fee; application form.**

19

20 Not more than ninety-six (96) days and not later than
21 eighty-one (81) days preceding the municipal general
22 election, each candidate for a municipal office where the
23 elected officer will be determined using the municipal
24 alternate voting methods required by this act shall pay a
25 nonrefundable filing fee of twenty-five dollars (\$25.00)
26 and sign and file with the municipal clerk an application
27 in substantially the following form:

28

1 State of Wyoming)

2

3) ss

4

5 County of)

6

7 I,, the undersigned, swear or affirm that I was
8 born on,(year), and that I have been a resident
9 of the State of Wyoming since, residing at, and
10 that I am a registered voter of Election District No.,
11 Precinct No., in Ward No., in the City of,
12 and the State of Wyoming as of the closing of the municipal
13 clerk's office on the day this application is filed, do
14 hereby petition and request that my name be printed upon
15 the Official Municipal General Election Ballot at the next
16 general election as a candidate for the office of, I
17 hereby declare that if elected I will qualify for the
18 office.

19

20 Dated:

21

22(Signature of Candidate)

23

1 **22-23-1107. Certification of candidates; names on**
2 **ballots.**

3

4 Not later than sixty-eight (68) days prior to the general
5 election, the municipal clerk shall certify to the county
6 clerk the names of all qualified candidates for election in
7 multi-candidate races at the municipal general election and
8 the office they seek.

9

10 **Section 2.** W.S. 22-16-103(c)(viii) by creating a new
11 subparagraph (H), 22-23-101, 22-23-201(a), 22-23-301, 22-
12 23-302, 22-23-303 and 22-23-307(a) are amended to read:

13

14 **22-16-103. County canvass procedures.**

15

16 (c) The county canvassing board shall:

17

18 (viii) Ensure abstracts contain the following
19 information:

20

21 (H) For general elections held under W.S.
22 22-23-1101 through 22-23-1107 in which ranked-choice voting
23 was used, the results of each round in which votes were

1 tabulated and any other information required by rule of the
2 secretary of state.

3

4 **22-23-101. Laws governing; costs.**

5

6 Unless otherwise specifically provided and except as
7 provided in W.S. 22-23-1101 through 22-23-1107, a municipal
8 election shall be governed by laws regulating statewide
9 elections. The municipality holding any election shall pay
10 the actual costs of the election, or an equitably
11 proportioned share of a concurrent election as determined
12 by the county clerk.

13

14 **22-23-201. Conduct; who may vote.**

15

16 (a) Except as provided in W.S. 22-23-202 and W.S. 22-
17 23-1101 through 22-23-1107, municipal primary and general
18 elections are held at the same time, in the same manner, at
19 the same polling places, and are conducted by the same
20 election officials, using the same poll lists, as the
21 statewide primary and general elections.

22

23 **22-23-301. Municipal officers.**

1

2 Except as provided by W.S. 22-23-1101 through 22-23-1107,3 a all candidates for municipal office shall be nominated at
4 the municipal primary election. In order to be eligible, ~~a~~5 ~~candidate~~ for municipal office, all candidates must be a

6 registered voter and a resident of the municipality and

7 ward which he seeks to represent on the day the petition is

8 filed, and shall not be an employee of the municipality. As

9 used in this section, the term "employee" includes only

10 those persons receiving an hourly wage or salary from a

11 municipality. A person who provides volunteer services to

12 a municipality shall not be considered an "employee" under

13 this section based solely upon coverage under the Wyoming

14 Worker's Compensation Act or other pension, death or

15 disability program.

16

17 **22-23-302. Filing fee; application form.**

18

19 Unless otherwise provided by W.S. 22-23-1101 through 22-23-20 1107, not more than ninety-six (96) days and not later than

21 eighty-one (81) days preceding the municipal primary

22 election, each candidate for a municipal office shall pay a

23 nonrefundable filing fee of twenty-five dollars (\$25.00)

1 and sign and file with the municipal clerk an application
2 in substantially the following form:

3

4 State of Wyoming)

5

6) ss

7

8 County of)

9

10 I,, the undersigned, swear or affirm that I was
11 born on,(year), and that I have been a resident
12 of the State of Wyoming since, residing at, and
13 that I am a registered voter of Election District No.,
14 Precinct No., in Ward No., in the City of,
15 and the State of Wyoming as of the closing of the municipal
16 clerk's office on the day this application is filed, do
17 hereby petition and request that my name be printed upon
18 the Official Municipal Primary Ballot at the next primary
19 election as a candidate for the office of, I hereby
20 declare that if nominated and elected I will qualify for
21 the office.

22

23 Dated:

1

2(Signature of Candidate)

3

4 **22-23-303. Certification of candidates; names on**
5 **ballots.**

6

7 Unless otherwise provided by W.S. 22-23-1101 through 22-23-
8 1107, not later than sixty-eight (68) days prior to the
9 primary election, the municipal clerk shall certify to the
10 county clerk the names of all qualified candidates for
11 nomination at the municipal primary election and the office
12 they seek. The number of municipal candidates the voters
13 are entitled to vote for at the primary election is the
14 number of candidates to be elected to municipal offices at
15 the general election.

16

17 **22-23-307. Candidates nominated; certificate of**
18 **nomination.**

19

20 (a) Unless otherwise provided by W.S. 22-23-1101
21 through 22-23-1107, the candidates equal to twice the
22 number to be elected to each office who receive the highest
23 number of votes are nominated to run for the office at the

1 next general election and shall be issued a certificate of
2 nomination by the county clerk. A write-in candidate shall
3 not be nominated and shall not be entitled to have his name
4 printed on the ballot for the next general election unless
5 he received at least three (3) votes.

6

7 **Section 3.** This act applies to municipal elections
8 held after January 1, 2024.

9

10 **Section 4.** The secretary of state shall promulgate
11 all rules necessary to implement this act.

12

13 **Section 5.**

14

15 (a) Except as otherwise provided by subsection (b) of
16 this section, this act is effective January 1, 2024.

17

18 (b) Sections 4 and 5 of this act are effective
19 immediately upon completion of all acts necessary for a
20 bill to become law as provided by Article 4, Section 8 of
21 the Wyoming Constitution.

22

23

(END)