Municipal nonpartisan ranked-choice elections.

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

A BILL for

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

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

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

ARTICLE 11 - NONPARTISAN RANKED-CHOICE ELECTION PILOT
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.
(iii) "Multi-candidate race" means a nonpartisan municipal race where more than two (2) candidates qualify to run for one (1) office or where the number of candidates who qualify for the race exceeds the total number of seats to be filled;

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

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

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

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

(B) For a canvassing phase in which at least one hundred (100) but fewer than five hundred (500)
valid votes are counted, nineteen hundredths of one percent (0.19%);

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

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

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

(F) For a canvassing phase in which ten thousand (10,000) or more valid votes are counted, eleven hundredths of one percent (0.11%).
The Committee may wish to consider using the existing recount criteria in W.S. 22-16-109 below:


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

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

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

(vii) "This act" means the Municipal Alternate Voting Methods Pilot Project Act.
(a) There is created the municipal alternate voting methods pilot project.

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

******************************************************************************

STAFF COMMENT

The Committee will need to determine when the pilot project will begin and end.

******************************************************************************

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

(i) The municipality intends to participate in the pilot project for the year specified in the notice; and
(ii) Includes a document, signed by the county or municipal clerk, stating that the municipality has the resources and capability necessary for the municipality to successfully execute an election under the pilot project.

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

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

(f) A county clerk or municipal clerk of a participating municipality that will conduct a multi-candidate race under subsection (e) of this section shall not conduct a municipal primary election relating to that race.
Utah's legislation prevents participating municipalities from conducting primary elections related to multi-candidate races only. The Committee may wish to consider whether participating municipalities will have primary elections for races that are not multi-candidate races. If the Committee determines that no primary elections will be held in municipalities participating in the pilot project, (f) above, W.S. 22-23-1106 and 22-23-1107 will have to be amended.

22-23-1104. Ranked-choice voting.

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

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

(ii) May indicate, as directed on the ballot, the names of the remaining candidates in order of the elector's preference.
The Committee may wish to consider whether municipal ranked-choice voting should only be used when there are three or more candidates running for office.

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

(i) List each qualified candidate for office;

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

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

(iv) Except as provided in paragraphs (i) through (iii) of this subsection, follow the requirements for nonpartisan ballots for general elections in W.S. 22-6-120 through 22-6-127.
(c) In a multi-candidate race conducted pursuant to W.S. 22-23-1103, the county or municipal clerk shall conduct the first ballot-counting phase by counting the valid first-preference votes for each candidate. If, after complying with subsection (g) of this section:

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

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

(A) Excluding from the multi-candidate race the candidate who received the fewest valid first-preference votes counted. In the event of a tie for the fewest valid first-preference votes counted, excluding one (1) of the tied candidates as determined by the county or
municipal clerk by lot, in accordance with subsection (h) of this section; and

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

(iii) If, after adding the valid second preference votes in accordance with paragraph (ii) of this subsection and after complying with subsection (g) of this section, no candidate receives more than fifty percent (50%) of the valid votes counted, the county or municipal clerk shall conduct subsequent ballot-counting phases by continuing the process described in paragraph (ii) of this subsection until one (1) candidate receives more than fifty percent (50%) of the valid votes counted.
(d) The county or municipal clerk shall certify as elected the first candidate who receives more than fifty percent (50%) of the valid votes counted under the process described in subsection (c) of this section.

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

(f) The county or municipal clerk shall order a recount of the valid votes in the applicable ballot-counting phase if one (1) candidate appears to have received more than fifty percent (50%) of the vote and the difference between the number of votes counted for the candidate who received the most valid votes for the applicable ballot-counting phase and the votes counted for any of the other candidates in the race is equal to or less than the product of the following, rounded to the nearest whole number:
(i) The total number of electors who cast a valid vote that is counted in the applicable ballot-counting phase of the race; and

(ii) The recount threshold.

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

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

(ii) The recount threshold.
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
Under W.S. 22-23-808, in special municipal elections, the governing body casts lots instead of using the process above. Please indicate if the Committee would prefer that process.

(iii) Sign a public document that:

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

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

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

(i) Except as provided in subsection (k) of this section, counting votes in the same manner as described in
subsections (c) through (h) of this section, until a candidate is certified elected;

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

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

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

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

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

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

(iii) Who has fewer valid votes in the phase than a candidate who is excluded under paragraph (ii) of this subsection.
(b) The requirement for a recount before excluding a candidate under W.S. 22-23-1104(g) shall not apply to candidates who are excluded through batch elimination under this section.

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

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

Not more than ninety-six (96) days and not later than eighty-one (81) days preceding the municipal general election, each candidate for a municipal office where the elected officer will be determined using the municipal alternate voting methods required by this act shall pay a nonrefundable filing fee of twenty-five dollars ($25.00) and sign and file with the municipal clerk an application in substantially the following form:
I, ...., the undersigned, swear or affirm that I was born on ...., .....(year), and that I have been a resident of the State of Wyoming since ...., residing at ...., and that I am a registered voter of Election District No. .....,
Precinct No. ....., in Ward No. ....., in the City of .....,
and the State of Wyoming as of the closing of the municipal clerk's office on the day this application is filed, do hereby petition and request that my name be printed upon the Official Municipal General Election Ballot at the next general election as a candidate for the office of ..... I hereby declare that if elected I will qualify for the office.

Dated: ......

...............(Signature of Candidate)
22-23-1107. Certification of candidates; names on ballots.

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

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

22-16-103. County canvass procedures.

(c) The county canvassing board shall:

(viii) Ensure abstracts contain the following information:

(H) For general elections held under W.S. 22-23-1101 through 22-23-1107 in which ranked-choice voting was used, the results of each round in which votes were
tabulated and any other information required by rule of the secretary of state.

22-23-101. Laws governing; costs.

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

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

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

22-23-301. Municipal officers.
Except as provided by W.S. 22-23-1101 through 22-23-1107, all candidates for municipal office shall be nominated at the municipal primary election. In order to be eligible, a candidate for municipal office, all candidates must be a registered voter and a resident of the municipality and ward which he seeks to represent on the day the petition is filed, and shall not be an employee of the municipality. As used in this section, the term "employee" includes only those persons receiving an hourly wage or salary from a municipality. A person who provides volunteer services to a municipality shall not be considered an "employee" under this section based solely upon coverage under the Wyoming Worker's Compensation Act or other pension, death or disability program.

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

Unless otherwise provided by W.S. 22-23-1101 through 22-23-1107, not more than ninety-six (96) days and not later than eighty-one (81) days preceding the municipal primary election, each candidate for a municipal office shall pay a nonrefundable filing fee of twenty-five dollars ($25.00)
and sign and file with the municipal clerk an application in substantially the following form:

State of Wyoming    
) 
) ss
County of ....    

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

Dated: .......
22-23-303. Certification of candidates; names on ballots.

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


(a) Unless otherwise provided by W.S. 22-23-1101 through 22-23-1107, the candidates equal to twice the number to be elected to each office who receive the highest number of votes are nominated to run for the office at the
next general election and shall be issued a certificate of
nomination by the county clerk. A write-in candidate shall
not be nominated and shall not be entitled to have his name
printed on the ballot for the next general election unless
he received at least three (3) votes.

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

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

Section 5.

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

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

(END)