



Alternate Voting Processes Study

Background Information

PREPARED FOR LEAGUE OF WOMEN VOTERS OF FLORIDA BY THE
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Issues Related to Alternative Voting Systems for the State of Florida

Here continues information about various voting systems for the LWVF study adopted in May 2005. Parts 1 through 6 are from the LWV of Minnesota study of 2004 when they adopted a position on the subject. This part deals with Florida's voting systems. It was researched and written by members of the League of Women Voters of the St. Petersburg Area.

Introduction

The purpose of this study is to provide background material about the most frequently discussed alternative voting systems for reference, discussion, and debate. For this study, a *voting system* is defined as a collection of rules and procedures that establishes how an election will be conducted, including how the ballots are marked, how the votes are tabulated, how many votes are necessary to win, and other election administration procedures. The scope of this study is limited to single-seat Florida elections. Voting systems being studied include plurality, approval voting, instant runoff voting (IRV), Borda count, and Condorcet.

Plurality Voting System Concerns

The only voting system used in Florida at this time is the Plurality Voting System, in which the candidate with the most votes wins, regardless of whether or not he or she received a majority of the votes cast. If only two candidates are running, plurality is also a majority, but if multiple candidates are running, the plurality outcome could be far less than a majority.

Recent changes to Florida election rules have heightened concerns as to whether plurality voting is adequate under all circumstances. In 2005 the Florida Legislature permanently eliminated second, or run-off, primaries because it was too costly. Keep in mind that four of Florida's most renowned legislators, LeRoy Collins, Reubin Askew, Lawton Chiles and Bob Graham, came in second in primaries during their political careers. Thanks to run-off primaries, we didn't lose these outstanding politicians. Now that run-off primaries are a thing of the past, do we need an alternative method of ensuring majority or near-majority winners?

In 1998 the Constitution Revision Commission placed an amendment on the ballot that would make it easier for minor party and independent candidates to get on the ballot. The amendment passed. According to Art. VI § 1 of the Florida Constitution, "Registration and elections shall, and political party functions may, be regulated by law; however, the requirements for a candidate with no party affiliation or for a candidate of a minor party for placement of the candidate's name on the ballot shall be no greater than the requirements for a candidate of the party having the largest number of registered voters."

Voter registration statistics show an increase in the percent of Florida voters registered as "no party" or in a minor party. In 1994, 8.64 percent of the voters were registered "no party" or in a minor party. In 2004, just ten years later, the figure was 20.85 percent. If this trend continues, along with the possibility of more minor party candidates running in the future, the problems of plurality voting might become more apparent.

Help America Vote Act (HAVA)

The 2002 Help America Vote Act (HAVA) authorized \$3.9-billion over three fiscal years to help state and local governments improve elections nationwide. In fiscal years 2003 and 2004 combined, Congress provided \$3-billion of the \$3.9-billion for HAVA implementation. Unfortunately, in fiscal years 2005 and 2006, no federal funds were appropriated for states to implement the HAVA requirements.

It is not yet clear whether Congress will appropriate the remaining \$798-million of authorized funding. Of that amount, \$724-million is for the federally mandated processes and equipment that state and local governments must have in place for federal elections in 2006, and \$74-million is for assisting state and local governments in making all polling places accessible.

The table below, from the Florida Secretary of State's office, shows state of Florida HAVA Plan actual and projected revenues.

HAVA Section 101 refers to voter education, poll worker training, oversight and reporting and other administrative activities. In 2003, Florida received \$14,447,580 toward this effort.

HAVA Section 102 refers to replacement of punch card and lever voting machines. In 2003, Florida received \$11,581,377 to help with this effort.

According to the Florida Department of State, Division of Elections, all counties in the State of Florida have either recently acquired and are now deploying newly certified voting systems, or have made significant upgrades to their existing system in accordance with Section 101.5605, Florida Statutes, and the

Florida Voting System Standards. As a result, Florida voters now have access to one of two voting method technologies. In some counties, an elector may indicate his or her choice for a candidate or issue on a "marksense paper ballot" and have that ballot tabulated on one of Florida's newly certified marksense scanner systems. In other counties, where "direct recording" technologies have been implemented, electors use touch screen voting devices to vote and cast their ballots. Some of these newly certified "direct recording" voting devices can be configured to support an audio ballot to accommodate voters with varying degrees of visual disabilities. This modern voting equipment makes it possible to consider using alternative voting systems for tabulating votes in the state of Florida.

HAVA Section 252 refers to HAVA Title II "requirements payments" to states. These payments are to be used primarily to meet the mandatory standards set forth in HAVA Title III (voting systems standards, provisional voting and voting information requirements, computerized statewide voter registration list requirements, and requirements for voters who register by mail).

As of December 21, 2005, the total estimated allocation to Florida of requirements payments appropriated in fiscal years 2003 and 2004 is \$132,502,091. Due to the delay in establishing the U.S. Election Assistance Commission (EAC), disbursement of these funds did not begin until June 2004. However, requirements payments made to a state under this part are available without fiscal year limitation.

Election Reform Estimated Revenues					
2003-2005 Fiscal Years					
	HAVA 101 (actual)	HAVA 102 (actual)	HAVA 252 (estimate)	Total Federal Funds	State Matching Funds
2003	\$ 14,447,580	\$ 11,581,377	\$ 47,416,833	\$ 73,988,000	\$ 525,000
2004	0	0	\$ 85,085,258	\$ 85,085,258	\$ 6,103,018
2005	0	0	TBD	TBD	NA
Total			\$132,502,091		\$ 6,628,018

History of Alternative Voting Systems and Runoff Primaries

In a Nov. 6, 2000, editorial the *St. Petersburg Times* reported that Florida used a version of Instant Runoff Voting (IRV), also known as Single Transferable Vote, for party primaries from 1916 through 1928. According to the Center for Voting and Democracy, instead of using the standard IRV sequential elimination of the candidate with the least number of votes, Florida used batch elimination of all but the top two candidates. (See Appendix A.) In both methods, the votes cast for the eliminated candidate(s) are transferred (or moved) to the next choice listed on each of those ballots. According to the Center for Voting and Democracy, IRV was dropped after a series of primary elections in which alternate preference votes happened to play no role in determining the winner. The *St. Petersburg Times* editorial says IRV was dropped because of “the massive problem of managing a statewide recount that depended on paper ballots.” Because optical scanners and computers are widely available to count votes today, this latter concern is no longer relevant.

According to Bob West, research librarian for the State Library of Florida in Tallahassee, the first statute mandating the use of a second, or runoff primary election in the event of a non-majority outcome was passed in 1937. (See Appendix B.) It is interesting to note that in 1936, according to the *Times*, 14 Democrats ran for governor, and the leader in the primary, who later lost the general election, polled only 15.7 percent of the vote. Can we conjecture that this had something to do with this particular election reform in 1937? A number of amendments pertaining to runoff elections were passed over the years, culminating in the permanent elimination of runoff primary elections in 2005.

Legality

This section is based on legal analysis by Jeff O’Neill, Cornell Law School legal intern with the Center for Voting and Democracy in the summer of 2003. His report is entitled “Fair Elections and the Law for the State of Florida: A Project of the Center for Voting and Democracy.”

Plurality Requirement for General Elections

The Florida Constitution Art. VI § 1 (2002) states that, “General elections shall be determined by a plurality of votes cast.”

Instant Runoff Voting (IRV) is the only one of the voting systems we are studying that explicitly uses the term *majority* in specifying the tabulation process to determine the winner of an election. Because the Florida Constitution specifies a plurality, which may be less than a majority, a constitutional amendment may be needed to allow implementing IRV for general elections, according to the Center for Voting and Democracy. This applies to all general elections at all levels of Florida government.

Plurality Requirement for Primary Elections

According to Florida Statutes § 100.061 (2005), “In each year in which a general election is held, a primary election for nomination of candidates of political parties shall be held on the Tuesday nine weeks prior to the general election. The candidate receiving the highest number of votes cast in each contest in the primary election shall be declared nominated for such office. If two or more candidates receive an equal and highest number of votes for the same office, such candidates shall draw lots to determine which candidate is nominated.”

Because the conduct of primary elections is specified in Florida Statutes rather than the Florida Constitution, implementing IRV would only require modifying state law, according to the Center for Voting and Democracy.

Exception for Municipal Primary Elections

Florida Statutes § 100.3605 (2002) states that, “The Florida Election Code, Chapters 97-106, shall govern the conduct of a municipality’s election in the absence of an applicable special act, charter, or ordinance provision. No charter or ordinance provision shall be adopted which conflicts with or exempts a municipality from any provision in the Florida Election Code that expressly applies to municipalities.”

According to the Center for Voting and Democracy, “since the state law regarding primaries does not expressly apply to municipalities, cities can pass an ordinance to change the manner in which primaries are conducted. Thus, a city could use IRV for a primary election.”

Appendix A. Historical Florida Statutes Regarding IRV

In 1915 the General Statutes of Florida pertaining to Primary Elections were amended to implement first and second choice voting.

Chap. 6874, Sec. 40, specified the form for official ballots for primary elections and included the following instructions on the ballot: “To vote for any candidate, make a cross (X) in the square in the appropriate column, according to your choice, at the right of his name. Vote your first choice in the first column; vote your second choice in the second column. If there is no second column at the right of a name, vote your first choice only. Do not vote more than one choice for the same candidate.” (See sample ballot page 5.)

Chap. 6874, Sec. 44, says: “First and second choice votes shall not be cast by a voter for the same candidate, and in the event this shall be done, only the first choice votes shall be counted.”

Chap. 6874, Sec. 45, goes on to explain how the votes were to be tallied: “Two tallybooks shall be used to show the results of such election by the inspectors and clerk at each and every election precinct, which shall contain the name of each person voted for for each office and the number of votes cast for each person for such office, and in all cases where first and second choice ballots are voted, the number of first choice votes received by each candidate and for which particular candidate said electors cast their second choice votes, and the number thereof.”

The 1920 Revised General Statutes of Florida were more specific about how the Primary Election ballots

were to be tallied. According to Section 354, under Primary Elections:

“If any candidate for an office shall receive a majority of first choice votes he shall be declared nominated for such office. If no candidate shall receive such a majority of first choice votes, then the nomination for such office shall be determined by excluding from further consideration the candidacy of all except the two candidates who shall have received the greatest and next greatest numbers of first choice votes, or the greatest and equal number of first choice votes, and by adding to such first choice votes of each of said two candidates the second choice votes cast for him by those voters whose first choice votes shall have been cast for any of the candidates excluded as herein provided.”

In our vote tally example below, James Simpson and Thomas Moore received the greatest and next greatest number of first choice votes, respectively. That means that William King and George White are excluded from further consideration, and the second choice votes of those voters who voted for the excluded candidates will now be considered. Voters who voted for William King cast 110 second-choice votes for Moore and 75 for Simpson. Voters who voted for George White cast 45 second-choice votes for Moore and 30 for Simpson. Therefore, Thomas Moore received 310 first-choice votes and 110 + 45 second-choice votes giving him a grand total of 465 votes. James Simpson received 355 first-choice votes and 75 + 30 second-choice votes giving him a grand total of 460 votes. This makes Thomas Moore the winner.

VOTE TALLY EXAMPLE					
Candidates	First Choice	Second Choice			
		King	Moore	Simpson	White
William King	225	null	110	75	40
Thomas Moore	310	95	null	125	90
James Simpson	355	55	175	null	125
George White	110	35	45	30	null

S A M P L E
 OFFICIAL BALLOT NO
 OFFICIAL PRIMARY ELECTION BALLOT 1914
 DEMOCRATIC PARTY
 Precinct Number 1. Alachua County.

Instructions: To vote for any candidate, make a cross (X) in the square in the appropriate column, according to your choice, at the right of his name. Vote your first choice in the first column; vote your second choice in the second column. If there is no second column at the right of a name, vote your first choice only. Do not vote more than one choice for the same candidate.

	First Choice	Second Choice
For Governor. Vote for one First Choice and one Second Choice:		
WILLIAM JONES		
CHARLES SMITH		
JOHN WILLIAMS		
For United States Senator. Vote for one First Choice:		
FRANK ANDERSON		
JOSEPH BROWN		
For Sheriff. Vote for one First Choice and one Second Choice:		
BENJAMIN THOMPSON		
DAVID WALKER		
SAMUEL YOUNG		
For Representative in the Legislature. First Group. Vote for one First Choice:		
GEORGE MOORE		
THOMAS SELDON		
For Representative in the Legislature. Second Group. Vote for one First Choice and one Second Choice:		
WILLIAM KING		
THOMAS MOORE		
JAMES SIMPSON		
GEORGE WHITE		

Appendix B.

1937 Florida Statutes Regarding Second Primaries

On June 9, 1937, the Florida governor signed into law Chapter 17897, Acts of 1937, which amended the Revised General Statutes of 1920, as amended by Section 2 of Chapter 13761, Laws of Florida, Acts of 1929, as follows:

Section 303. "A first Primary Election shall be held on the first Tuesday after the first Monday in May of every year in which a General Election is held for the election of all political party officers, National Committeemen and Committeewomen, and delegates to National Convention, and for the nomination of candidates of all political parties; and a second Primary Election shall be held as hereinafter in this Act provided.

Section 354. "If any candidate for an office shall receive a majority of the votes cast for such office in the first primary election provided for herein, he shall be declared nominated for such office. If no nomination is made as hereinbefore in this section provided, then there shall be held a second primary election on the fourth Tuesday after the first Monday in May of every year in which a general election is held for the nomination of all candidates of all political parties for State and county offices for which nominations were not made in first primary election provided for in this Act, which said second primary election shall be held and conducted and the returns thereof made, canvassed and certified, and the ballots to be voted therein furnished, as in this Act provided for first primary election, provided, that there shall be printed upon the ballot prepared for second primary elections only the names of candidates who shall have received in the first primary election the greatest and next greatest or equal number of votes, and provided further, if more than two candidates shall have received the greatest or next greatest or equal number of votes in the first primary election, the names of all such candidates shall be printed upon the ballots for the second primary election."

Bibliography

- "Better than Runoffs," *St. Petersburg Times* editorial, November 6, 2000.
- "Borda count," Wikipedia, http://en.wikipedia.org/wiki/Borda_count
- "The Case for Runoffs," *St. Petersburg Times* editorial, December 18, 2002.
- Colburn, David and Richard Scher, *Florida's Gubernatorial Politics in the 20th Century*. University Presses of Florida, 1980.
- "Condorcet method," Wikipedia, http://en.wikipedia.org/wiki/Condorcet_voting
- "County Voter Registration By Party, October 11, 1994," Division of Elections – Florida Department of State, <http://election.dos.state.fl.us/pdf/1994voterreg/94genparty.pdf>
- "County Voter Registration By Party, October 4, 2004," Division of Elections – Florida Department of State, <http://election.dos.state.fl.us/pdf/2004/2004genParty.pdf>
- "Fair Elections and the Law for the State of Florida," Center for Voting and Democracy, Aug. 11, 2003, <http://www.fairvote.org/media/pep/FL.pdf>
- The 2005 Florida Statutes, <http://www.flsenate.gov/Statutes/>
- The Florida Constitution, <http://www.flsenate.gov/Statutes/index.cfm?Mode=Constitution&Submenu=3&Tab=statutes>
- "HAVA Title II Requirements Payments Processed by the EAC as of December 21, 2005," United States Election Assistance Commission, http://www.eac.gov/state_grants.asp?format=none
- Help America Vote Act of 2002, http://www.eac.gov/law_ext.asp
- "The History of Instant Runoff Voting," Center for Voting and Democracy, http://www.fairvote.org/irv/vt_lite/history.htm
- "Instant-runoff voting," Wikipedia, <http://en.wikipedia.org/wiki/IRV>
- "Make Election Reform a Reality: Support implementation and full funding for HAVA," letter to U.S. Senators from LWVUS et al, April 20, 2006, http://www.lwv.org/AM/Template.cfm?Section=Letters_to_Congress_and_The_President&TEMPLATE=/CM/ContentDisplay.cfm&CONTENTID=5413
- "Next Steps on Election Reform," League of Women Voters Education Fund report, July 2005, 16 pages, http://www.lwv.org/Content/ContentGroups/Publications/VoterInformation/voting_nextsteps_lwv.pdf
- Official Results, September 12, 1978 Primary Election, Democratic Primary, Governor & Cabinet, Division of Elections – Florida Department of State, <http://election.dos.state.fl.us/elections/resultsarchive/>
- Official Results, October 5, 1978 Runoff Election, Democratic Primary, Governor & Cabinet, Division of Elections – Florida Department of State, <http://election.dos.state.fl.us/elections/resultsarchive/>
- "State of Florida HAVA Plan Update June 2004," page 64, <http://election.dos.state.fl.us/hava/pdf/revisedHAVAplan.pdf>
- "Voter Registration Statistics," Division of Elections – Florida Department of State, <http://election.dos.state.fl.us/voterreg/index.shtml>
- "Voting Systems," Division of Elections - Florida Department of State, <http://election.dos.state.fl.us/votemeth/index.shtml>
- "Voter Turnout Percentages," Division of Elections – Florida Department of State, <http://election.dos.state.fl.us/online/votepersent.shtml>
- "What would LeRoy Collins do?" *St. Petersburg Times* editorial, June 21, 2005.

Alternative Voting Systems

League of Women Voters of Minnesota

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Part II Facts and Issues: Voting Systems

Part III Issues: Determining the Will of the People

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Issues Related to Alternative Voting Systems for the State of Florida

Issues related to AVS in other States