

Hello, my name is Sara Wolk and I'm testifying today that the explanatory statement and ballot title for LR 403 are misleading, omit critical information voters need, and that they are setting Oregon up for massive backlash and buyers remorse when voters realize that the claims made by advocates, the legislature, and even the Attorney General are false or misleading.

RCV has now been banned in 10 states, and has been repealed by 19 jurisdictions that had adopted it. False and misleading claims are a central reason cited for these repeals and bans.

I used to be an advocate for RCV, but changed my position and now oppose the reform after learning that many of the common claims made in voter education and advocacy materials were incorrect. Worse, this is not an accident by advocates. It's a tactical decision that telling voters what they want to hear is worth it when the claims are persuasive, and that the more groups repeat these claims, the more likely they are to pass as true.

I know that calling a statement written by the Legislative Council or the Attorney General false is a strong statement, and I don't make it lightly. I've been working in this field for over 10 years now and am a peer reviewed author on this subject, but you don't have to take it from me.

The Oregon Supreme Court has also weighed in to rule that the Ballot Title as written is misleading and that the way the word "Majority" is used is false, and it's clear that the explanatory statement is closely based on the first draft of the ballot title.

Unfortunately, the Supreme Court no longer has the power to enforce its rulings on legislative referrals due to recent procedural changes. Without that mechanism for checks and balances regarding the Ballot Title, it becomes even more critical that the explanatory statement be revised to make all the disclosures voters deserve so that they can cast an informed vote this November.

The RCV measure's Explanatory Statement says: "The candidate receiving the fewest votes in each round is defeated and the defeated candidate's votes are assigned to the voter's next highest-ranked candidate. This process continues until a candidate receives a majority of votes."

* The claim that the winner will have a majority of votes is false. Some voters will have been eliminated/exhausted/spoiled in the tabulation process and RCV only ensures the winner has a majority of REMAINING votes. Studies have shown that over 60% of RCV elections that have more than one round of tabulation do not result in a true majority winner.

* Some voters whose other down ballot preferences could have made a difference if they'd been counted are ignored and the ultimate RCV winner may be opposed by a majority of voters who preferred another candidate over the RCV winner.

* The explanatory statement makes no mention of the fact that the measure would revoke the authority to tabulate elections from the county's and would require centralized tabulation under

the SOS, which undermines trust in elections, undermines chain of custody, and makes errors more likely to happen and harder to catch.

* The OR Supreme Court has ruled that the RCV ballot title is false and misleading in its use of the word majority and that they need to make it clear that it's a "majority" of remaining active votes in the final round - not counting exhausted ballots.

* It's VERY important to note and to explain that not all exhausted ballots were just left blank for the down ballot rankings. Voters who did rank all the candidates or whose ignored rankings could have been relevant can have their ballot exhausted too.

Recommendation: I recommend that the Explanatory Statement be amended to clearly disclose that RCV has high rates of ballots voided by voter errors, high rates of exhausted ballots (which are ballots that cannot be counted in the deciding round), and that winners will have a majority of remaining non-exhausted votes only.

A better wording would be that "the Ranked Choice Voting winner will have the most votes after the elimination of some candidates and some voters from the tally.

Thank you for your time and consideration.

- Sara Wolk

Eugene, OR

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Warnings From Elections Officials against RCV:

- Representatives of the **Oregon Association of County Clerks** testified to the legislature that **"Elections should be accessible, simple, affordable, predictable, secure, auditable, and yield timely and accurate results. RCV does none of these things."** ([Public Testimony 3/16/23](#))

RCV Constitutional Compliance Issues - Equal Elections:

- The [Oregon Constitution, Article 1](#) states that:
 - "No law shall be passed granting to any citizen or class of citizens privileges, or immunities, which, upon the same terms, shall not equally belong to all citizens." and
 - "All elections shall be free and equal."
- There are [several ways](#) in which **the RCV tally does not treat all voters equally and the system does not ensure all voters have an [equally weighted vote](#).**
- In RCV, **some voters whose favorite does not win will have their next choice counted, others will not.** This is true even if they had another candidate ranked and even if the ignored rankings could have made a difference.
- In RCV, **voters are at a mathematical disadvantage if their vote transfers later in the process, or not at all.** In some cases, this can lead to votes backfiring, literally having the opposite impact than the voter intended. ([Monotonicity Criteria failure.](#))
- A [study](#) analyzing 98 RCV elections from 2006 to 2019 found that in races that required multiple rounds of tabulation, **over 10% of ballots were unable to be counted in the final round**, either due to the order of elimination (ballot exhaustion) or because they were voided due to voter errors.
- [Studies consistently show](#) that with RCV, **lower income and minority voters are more likely to cast voided and exhausted ballots.** In RCV, ranking candidates equally is common and doing so can void your ballot.

OR Supreme Court Ruling: The LR 403 Ballot Title is inaccurate, does not comply with Oregon Law, and must be modified.

- **LR 403's ballot title falsely states that the "candidate receiving majority of votes wins."** A true majority preferred winner may not exist. In this case, RCV eliminates both candidates and voters before finding a winner with a "majority" of remaining "active votes."
- In some cases **an eliminated candidate may actually have been preferred over the RCV winner by a majority of voters** who had a preference.
- In Alaska's 2021 RCV special election for US House, of voters who had a preference, the majority preferred loser Nick Begich over the winner, Mary Peltola.
- **The Oregon Supreme Court ruled that the certified ballot title for LR 403 does not comply with Oregon law.** (*Sasinowski v Legislative Assembly, 2024.*)
 - The ruling states "'candidate receiving majority of votes wins' ... does not accurately describe the measure." The Court ruled that the phrase be changed to "majority of votes counted for active candidates in a final round of tallying."
 - Due to recently passed laws, the Court is no longer able to enforce mandated corrections of the ballot title.
 - The ballot title is going forward as written.

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LR 403:

- **Refers Ranked Choice Voting (RCV) to voters** for adoption for many federal and partisan statewide primary and general elections by 2028 and enables municipalities to use RCV for local elections. Does not apply to state legislature or judges.
- **RCV requires centralized tabulation of ballots.** Takes authority to locally tally and audit RCV elections away from County Clerks.
- **Results would not be available until a full month after election** day according to the Association of County Clerks, who oppose the Act.

Legal Non-Compliance - RCV violates local tabulation requirement:

- **State law currently requires local ballot tabulation** as an election integrity measure and requires precinct level results to be published.
- **RCV requires centralized tabulation of ballots by design.**
 - **Most rankings given are never counted in RCV.** Determining which ballot data to count requires looking at all ballots to determine the candidate's order of elimination.
 - Tallying a subset of RCV ballots would be impossible because the order of elimination is unknown, thus **producing "tallied returns" by precinct in RCV is impossible.**
- **LR 403 only strikes one of the election integrity provisions in Oregon law that requires ballots to be counted locally.**
 - [ORS 254.485](#) currently states: *"ballots shall be tallied and returned by precinct."*
 - Under LR 403, ORS 254.485 would be changed to: *"Ballots may be tallied by a vote tally system, by a counting board, or in the manner determined by the Secretary of State under ORS 246.200. A counting board may tally ballots at the precinct or in the office of the county clerk. Except as otherwise determined by the secretary under ORS 246.200, the ballots shall be tallied and returned by precinct."*
- **The law requiring "Vote Tally Systems" to produce precinct totals remains.**
 - LR 403 does not change [ORS 246.560, §2](#). It states: *"A **vote tally system shall be ... capable of automatically producing precinct totals** in either printed, marked, or punched form, or combinations thereof."*
 - "Vote tally system" is defined as "one or more pieces of equipment necessary to examine and tally automatically the marked ballots."
 - **While LR 403 does not explicitly require a "vote tally system" be used, an election that did not use one would have to be a hand count.**
 - No "equipment" could be used to scan ballots or tally results. For a modern statewide election this would be extremely impractical and vulnerable to human error.
- **Addressing the counterargument:** An RCV vote tally system could produce a precinct level tally of how many ballots were filled out in each possible unique ranked order. However, this would not be a "tally" of the results, but rather an alternate less transparent format for storing or presenting ballot data.
 - The number of possible ranking permutations could easily be larger than the number of Oregon voters in elections with larger numbers of candidates. The product of such a process would not be a "tally" or "total".

Takeaway: Under LR 403, statewide RCV elections would need to be handcounted at the statewide level to comply with Oregon law.