

PUBLIC HEARING on the “BALLOT QUESTION” RULES, conducted by the SECRETARY of STATE

This is Article #14 in a series—provided by the
ELECTION INTEGRITY PROJECT [a Task
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OUR ANALYSIS OF TODAY’S HEARING, Tuesday, July 30, 2019

We listened with interest today to the Secretary of State’s public hearing in Albuquerque on her proposed new rules regarding 1) Ranked Choice Voting; and 2) Ballot Questions.

We appreciate that the Secretary of State’s office is providing “transparency” (of one type) by holding public hearings in three different New Mexico cities instead of just Santa Fe. We also noted that the hearing was well run by the new Deputy Secretary of State, Sharon Pino.

However, despite being able to see today’s process, the in-person audience appeared to question the “transparency” of the actual substance of the hearing—the true “understandability” of proposed rules themselves. We heard numerous comments today from citizens who said the rules were “confusing,” “not transparent,” and “very complicated.” One person noted that the rules raise the specter of corruption because of their complexity. Another said, “I don’t know what ranked-choice voting actually does.”

We offer some comments on today’s hearing.

THE RULE on BALLOT QUESTIONS

The rule on Ballot Questions being offered by the SOS covers ALL ballot question elections in New Mexico, both statewide and local, including constitutional amendments, bond issues, new tax assessments, and local ordinances—any question that can be properly placed on the ballot.

We offer this clarification because the second rule, on Rank-Choice Voting, only affects certain local elections in home-rule cities that already have or may adopt Ranked-Choice Voting. There appeared to be some confusion about the scope of each rule today.

Regarding Ballot Questions, we published a series of three articles on that topic, and like a number of the speakers today, we believe the proposed rule does not follow the statute.

In a nutshell, the proposed rule would allow the Secretary—not the legislature or local governmental entity that will have actually written the question—to determine exactly how a question will appear on the ballot, by empowering herself to “condense” the language. Keep in mind, this prevents the legislature, the city government, the county government, community college boards, school boards, et. al, from deciding how their OWN proposals are presented to the people.

Attorneys who spoke today pointed out that the rule raises a number of legal issues and that the intent of the duly elected officials could actually be thwarted by the “substitute, summarized, or condensed” language that might be placed on the ballot by the Secretary of State.

One of the main arguments offered in favor of “condensed” ballot questions is the need to take up less space on the ballot. Senator Daniel Ivey-Soto opined that democracy is hurt if voters can’t read the ballot or need a magnifying glass in order to do so. We agree, but as we pointed out previously, the local election act provides for multiple page ballots to avoid that problem.

The irony of the argument about "conserving ballot space" is that the other rule, Ranked-Choice Voting, effectively negates it by taking vastly more ballot space than the current process of casting one vote per candidate.

THE RULE on RANK CHOICE VOTING

Rank choice voting, as noted by the Secretary herself, has been implemented in Santa Fe and Las Cruces, and is under discussion in Albuquerque. Yet, Albuquerque is one of the examples used where the ballots are printed in such small font that a magnifying glass is needed.

In a typical contested race for public office, a ballot would have one vote circle for each candidate. We are all familiar with that.

So, a normal race would take up space on one column, about an inch, maybe two, when printed in normal size and readable font.

But a Ranked-Choice ballot for the same race would look like the ballot depicted below. As you can see, while taking up the same amount of space vertically, the race now takes four times as much space horizontally across the ballot. The number of columns required to "rank the choices" vastly increases as the number of candidates increases.

IRRECONCILABLE ARGUMENTS

It is difficult to reconcile the arguments of some of those present today who supported both the Ballot Question "condensation" as well as the multi-fold expansion of the ballot so as to accommodate the massive requirements of rank-choice voting.

Proponents of "condensed" ballot questions have said all along—and some testified again today—that complete, full disclosure ballot questions may sometimes simply be too big, and they need to condense the text in order to save valuable ballot space and prevent the ballot from being printed in microscopic font.

At the same time, however, many of these same advocates of condensing the ballot on the one hand, argue for its massive expansion on the other hand. One proposed rule actually opposes, counteracts, or works against the very rationale offered for the other rule.

Under the proposals being considered for Albuquerque city elections, the races for individual offices would take up much—if not all—of a standard ballot by providing several columns to fit in the Ranked-Choice voting process. (Municipal elections history shows that some offices could conceivably have numerous columns—with voters having to rank as many as 8 or 9 candidates.)

So, the Ranked-Choice Voting process does not conserve ballot space, but instead adds significantly to the length of the ballot

IN SUMMARY

What both of these concepts—Ranked-Choice Voting and the "condensed" text for ballot questions—do have in common is a lack of true transparency.