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Exempt Action: Final Regulation Agency Background Document

Agency name	Department of Elections
Virginia Administrative Code (VAC) Chapter citation(s)	1VAC20-100
VAC Chapter title(s)	Ranked Choice Voting
Action title	Ranked Choice Voting and Ballot Standards
Final agency action date	09/14/2021
Date this document prepared	09/22/2021

Although a regulatory action may be exempt from executive branch review pursuant to § 2.2-4002 or § 2.2-4006 of the *Code of Virginia*, the agency is still encouraged to provide information to the public on the Regulatory Town Hall using this form. However, the agency may still be required to comply with the Virginia Register Act, Executive Order 14 (as amended, July 16, 2018), the Regulations for Filing and Publishing Agency Regulations (1VAC7-10), and the *Form and Style Requirements for the Virginia Register of Regulations and Virginia Administrative Code*.

Brief Summary

Provide a brief summary (preferably no more than 2 or 3 paragraphs) of this regulatory change (i.e., new regulation, amendments to an existing regulation, or repeal of an existing regulation). Alert the reader to all substantive matters. If applicable, generally describe the existing regulation.

This regulatory action establishes a process and standards for the administration of certain local seats elected by ranked choice voting. This regulation has been amended from its proposed stage following a public comment period.

Ranked choice voting is a method of voting which permits voters to rank their preference of candidates and/or write-ins. In ranked choice voting, a voter may rank as many or as few candidates as they choose starting with their first choice. Ranked choice voting may be used for single seat or multi seat offices.

Mandate and Impetus

Identify the mandate for this regulatory change and any other impetus that specifically prompted its initiation (e.g., new or modified mandate, internal staff review, petition for rulemaking, periodic review, or board decision). "Mandate" is defined as "a directive from the General Assembly, the federal government, or a court that requires that a regulation be promulgated, amended, or repealed in whole or part."

In 2020 the General Assembly passed HB 1113, which established ranked choice voting as a method for the election of county board of supervisors and city council members. In 2020 the General Assembly also passed HB 506 which established instant runoff voting as a method for the election of board of supervisors in localities operating under the county manager plan. Further, HB 506 specifies that instant runoff voting is another name for ranked choice voting.

Pursuant to § 24.2-673.1 of the Code of Virginia, "the State Board may promulgate regulations for the proper and efficient administration of elections determined by ranked choice voting, including (i) procedures for tabulating votes in rounds, (ii) procedures for determining winners in elections for offices to which only one candidate is being elected and for offices to which more than one candidate is being elected, and (iii) standards for ballots pursuant to § 24.2-613, notwithstanding the provisions of subsection E of that section."

Statement of Final Agency Action

Provide a statement of the final action taken by the agency including: 1) the date the action was taken; 2) the name of the agency taking the action; and 3) the title of the regulation.

The final amended text of this regulation was approved by the State Board of Elections on September 14, 2021 for immediate effect through the exempt process. The relevant regulation title is 1VAC20-100 Ranked Choice Voting.