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## Coates' Canons Blog: Instant Runoff Voting

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Article: <https://canons.sog.unc.edu/instant-runoff-voting/>

This entry was posted on November 02, 2010 and is filed under Elections, Elections Administration, Voting

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**UPDATE November 2013: The 2013 General Assembly repealed all legislation authorizing instant runoff elections in North Carolina. As the law now stands, the kinds of instant runoff voting described in the following post are no longer possible in North Carolina.**

In 2010, North Carolina became the national leader in instant-runoff voting (IRV). Our statewide IRV race for a seat on the state's court of appeals is unprecedented in American electoral history. An IRV election with more than a million votes cast, like we have had, was previously unknown. What is IRV and how did we get here?

Let's start by thinking about regular elections. There are several different kinds of regular elections in use in North Carolina. We go to the polls and vote in these different kinds of elections, whether we pay much attention to the differences or not.

One difference is whether the elections are *partisan* or *non-partisan*. In a partisan election, the first round of voting is a primary. In even-numbered years—the time when most primary elections are held—the primary is in May. In the primary, Democrats run against Democrats and Republicans run against Republicans, for their party's nomination for governor, council of state, the state legislature, county commissions, and other offices. Sometimes there are recognized third parties, usually the Libertarians. The winner of the primary is the leading candidate who gets more than 40 percent of the vote. If no candidate gets more than 40 percent, then there is a second primary, between the top two vote-getters. The party winners face each other in the November general election.

In a non-partisan election, by contrast, candidates all run together on the same ballot, not identified by party. Most city and school board elections are non-partisan. Sometimes, as we will see in just a minute, there is a primary, followed by a general election. Sometimes there is just one vote. Either way, the ballot does not indicate the parties of the candidates. Party affiliation plays no role in how election officials determine the winner (even though it may play a role in how voters vote).

A second major difference is whether there is a primary election involved at all. All partisan elections have party primaries; some non-partisan elections have primaries but most do not. If there's no primary, voters go to the polls just one time and the candidate with the most votes wins. This is the *plurality* method of election and is used in the overwhelming majority of small North Carolina towns and for many school boards. But not all nonpartisan elections use the plurality method. In many non-partisan elections, the relevant statutes call for a primary election among all the candidates—all of them together on the one ballot without regard to party—to narrow the field for the general election. Under some statutes, the primary automatically narrows the field to the two top vote-getters, to go head-to-head in the general election. Under other statutes, the primary ends the matter if one candidate gets a majority of the votes cast in the primary. There is a general election only if no candidate gets a majority.

So the simplest election is the nonpartisan plurality election. All candidates are on the same ballot. There is one round of voting. The candidate with the most votes wins.

But for all other elections, whether partisan or nonpartisan, where primaries are involved, there is the likelihood—often the certainty—that voters will have to come to polls twice, for the primary and the general election, and sometimes there will be a round of voting, the second primary, in between those two rounds.

For many years, IRV has been kicked around as an idea for cutting down on the number of times that the polls have to be opened for voting. With IRV in partisan elections, there would never be a need for a second primary. It would be taken care of at the time of the first primary. With IRV in non-partisan elections that use primaries, there would be no need for a

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general election. It would be taken care of at the time of the primary.

How? The IRV method, as used in North Carolina, permits voters to rank up to three of the candidates by order of preference, first, second, and third. If no candidate receives a majority (or other defined threshold, such as 40 percent) of the first-choice votes, the two candidates with the highest number of first-choice votes advance to a second round of counting. Let's call them Candidate Alpha and Candidate Beta. In that second round, every ballot is reviewed on which the voter did not mark either Alpha or Beta as the voter's first choice. Of those, every ballot on which Alpha is marked as second choice is added to Alpha's total and every ballot on which Beta is marked second choice is added to Beta's total. For ballots on which neither Alpha nor Beta is marked as the second choice, then every ballot on which Alpha is marked as the third choice is added to Alpha's total and every ballot on which Beta is marked as third choice is added to Beta's total. The candidate with the higher total is declared the winner.

IRV voting means that in a partisan primary situation, the second primary is built-in. In a non-partisan primary situation, the general election is built-in. In each case, the number of times that the polls are opened to voters is reduced by one.

While the IRV idea has been around for a long time, it had never been used in North Carolina (or anywhere else in the country), except on a very local scale. Then, in 2004, an unusual election spurred the General Assembly to adopt it as an election tool, leading to our 2010 experience.

Here's what happened. Back in the early 2000s, the General Assembly changed elections for the North Carolina Court of Appeals and the North Carolina Supreme Court from partisan to non-partisan, still using a primary. That change quickly led to a not-fully-anticipated *plurality* election for supreme court. In 2004, a member of the supreme court resigned, long after the primary election had been held for open Supreme Court seats, creating a vacancy. There was still time to have a general election in November to fill the vacancy, but there was, obviously, no opportunity to have a primary. In the old days, before judicial elections became non-partisan, the executive committees of the political parties would have put forward candidates to go on the general election ballot. But what about now, with the elections changed to non-partisan? The result was a one-election, plurality, winner-take-all vote for supreme court. The winner received just under 23 percent of the vote and took his seat on the court.

So the system in place permitted a candidate to win a seat on the state's highest court with less than quarter of the total vote. There was substantial thought that that is not a good system, and in 2006 the General Assembly amended the statute, **G.S. 163-329**, to provide that in a circumstance such as the one that arose in 2004 the vacancy would be filled not by a plurality election but by using IRV.

Well, in 2010, the circumstance arose again. A member of the North Carolina Court of Appeals resigned to take a seat on a federal appeals court. His resignation came, as in 2004, after the primary but in time for an election in November.

The result: an unprecedented statewide IRV election, with 13 candidates, introducing North Carolina voters and elections officials to a totally new way of voting and counting votes, and moving North Carolina to the forefront of this alternative election method.

## Links

- [www.ncga.state.nc.us/EnactedLegislation/Statutes/HTML/BySection/Chapter\\_163/GS\\_163-329.html](http://www.ncga.state.nc.us/EnactedLegislation/Statutes/HTML/BySection/Chapter_163/GS_163-329.html)