

**BALLOT  
REVIEW**

# Idaho's Prop 1: Enacting ranked choice voting and top 4 primaries

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SEPTEMBER 2024



**MOUNTAIN STATES**  
POLICY CENTER





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## Introduction

This November Idaho voters will decide whether to enact Ranked Choice Voting (RCV) for statewide elections while using a non-partisan Top 4 primary system to determine which candidates advance to the general election. Idaho is currently one of nine states that are referred to as a “partially closed” primary state, meaning the private political parties are allowed to decide whether to include ballots from nonaffiliated voters.

While there are many examples of states with open primaries across the country, currently only Alaska and Maine use Ranked Choice Voting for statewide elections. Alaska voters narrowly adopted RCV in 2020 by 50.55%, but its use has been so controversial that Alaskans this November will have the opportunity to repeal it with the certification of a new ballot measure.<sup>1,2</sup>

In 2023, a supermajority of the Idaho legislature adopted HB 179 prohibiting the use of Ranked Choice Voting in the state (that bill was signed into law by Governor Little).<sup>3</sup> Proposition 1 would reverse this RCV ban. With the sponsors of Proposition 1 combining Ranked Choice Voting and a Top 4 primary together, voters only have the option to accept or reject both election changes. They can't pick one or the other.

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<sup>1</sup> “Alaska Ballot Measure 2, Top-Four Ranked-Choice Voting and Campaign Finance Laws Initiative (2020),” Ballotpedia, available at [https://ballotpedia.org/Alaska\\_Ballot\\_Measure\\_2\\_Top-Four\\_Ranked-Choice\\_Voting\\_and\\_Campaign\\_Finance\\_Laws\\_Initiative\\_\(2020\)](https://ballotpedia.org/Alaska_Ballot_Measure_2_Top-Four_Ranked-Choice_Voting_and_Campaign_Finance_Laws_Initiative_(2020))

<sup>2</sup> “Repeal of ranked-choice voting petition makes ballot,” Must Read Alaska, February 26, 2024, available at <https://mustreadalaska.com/breaking-repeal-of-ranked-choice-voting-petition-makes-ballot/>

<sup>3</sup> “Idaho House Bill 179 - 2023,” Idaho State Legislature, available at <https://legislature.idaho.gov/sessioninfo/2023/legislation/h0179/#:~:text=VOTING%20%E2%80%93%20Adds%20to%20existing%20aw,ranked%20choice%20voting%20in%20Idaho>

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*Proposition 1 would do two things: require top 4 primaries and adopt ranked choice voting for general elections.*

### Official ballot summary for Proposition 1

Here is the official ballot summary for Proposition 1:

“Measure to:

1. replace voter selection of party nominees with a top-four primary;
2. require a ranked-choice voting system for general elections.

This measure proposes two distinct changes to elections for most public offices.

First, this measure would abolish Idaho’s party primaries. Under current law, political parties nominate candidates through primary elections in which party members vote for a candidate to represent the party in the general election. The initiative creates a system where all candidates participate in a top-four primary and voters may vote on all candidates. The top four vote-earners for each office would advance to the general election. Candidates could list any affiliation on the ballot, but would not represent political parties, and need not be associated with the party they name.

Second, the measure would require a ranked-choice voting system for the general election. Under current law, voters may select one candidate for each office, and the candidate with the most votes wins. Under the ranked-choice voting system, voters rank candidates on the ballot in order of preference, but need not rank every candidate. The votes are counted in successive rounds, and the candidate receiving the fewest votes in each round is eliminated. A vote for an eliminated candidate will transfer to the voter’s next-highest-ranked active candidate. The candidate with the most votes in the final round wins.”<sup>4</sup>

### Pro and Con statements

Here are excerpts from the Pro and Con statements for Proposition 1 that will be published by the Secretary of State in the official voter's guide:

*Pro:* “Voting YES on Proposition 1 will bring back open primary elections and give all Idaho voters, including those not affiliated with a political party, the right to vote in every election. Currently, Idaho’s closed primary system blocks more than 270,000 independent voters from participating. That’s not right. A Yes vote for Proposition 1 says that

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<sup>4</sup> Email to author from Idaho Secretary of State Office. Copy available on request.

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every voter should have the right to participate in every taxpayer-funded election. Voting YES on Proposition 1 will restore the longstanding tradition of open primary elections in Idaho. Idahoans voted in open primaries for 40 years until party officials established closed primaries back in 2011. A Yes vote for Proposition 1 brings us back to a time when you weren't forced to join a political party to have a say in who is elected to important offices.”

*Con:* “Proposition 1, contrary to its proponents’ assertions, does not broaden primary election access for unaffiliated voters. Instead, it replaces Idaho’s elections system with an intricate Ranked-Choice Voting system that undermines the democratic process. Even the Idaho Supreme Court stated that ‘open primary’ means something very different than this proposal. While supporters claim that unaffiliated voters face obstacles to participation, these voters can, in reality, request and cast ballots in any party primary they choose. The unstated objective of Proposition 1 is to allow registered Democrats into Republican primaries, effectively transforming Idaho’s political environment into something more like California’s. Barely mentioned by proponents, and buried within Proposition 1’s text, is the replacement of Idaho’s election system with a Ranked Choice Voting gimmick.”<sup>5</sup>

**Does Proposition 1 create a traditional open partisan primary or a nonpartisan multi-party primary?**

The question of whether Proposition 1 creates a traditional open primary was subject to a court challenge last year before the Idaho State Supreme Court. The Idaho justices ruled on that specific question saying:

“Petitioners further contend that the Initiative proposes an ‘open primary’ and that any short title that fails to use that term will not be distinctive. Initially, we note that the revised Initiative that Prince filed with the Secretary of State is not called the ‘Idaho Open Primaries Act.’ Rather, the revised Initiative deleted that language. Further, it replaced references to ‘open primary election’ with ‘top four primary election.’ However, even if the Initiative had retained its original language, we conclude that the term ‘open primary’ also fails to adequately describe what the Initiative proposes.

An ‘open primary’ is its own type of primary system within a party-run primary framework. [See \*State Primary Election Types, Nat’l Conf. of State Legislatures, \(Jun. 22, 2023\)\*](#). ‘In an open primary, voters may choose privately in which primary to vote.’ *Id.* (emphasis added). Thus,

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<sup>5</sup> *Ibid.*

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an open primary system exists where political parties hold independent party primaries to select party nominees and allow anyone, regardless of party affiliation, to vote in their primary. Id. The Initiative does not describe an ‘open primary’ system because it does not propose retaining the separate, party-run primary system currently in place . . . In the face of this evidence that an ‘open primary’ means something significantly different than what is proposed by the Initiative, Petitioners still maintain that the term ‘open primary’ is accurate because other states have used it to describe similar primary election systems that have either been adopted or proposed in those states. While other states may have used the term, we conclude that it is not distinctive in Idaho given Idaho’s history. Use of ‘open primary’ in this state would not be distinctive because it does not accurately distinguish the new voting system the Initiative proposes from Idaho’s previous open primary system.”<sup>6</sup>

### **Projected \$25 to \$40 million price tag to implement and delayed election results**

Idaho's Secretary of State Phil McGrane sent legislators a detailed memo on July 3 discussing Proposition 1.<sup>7</sup> While he didn't see challenges with the Top 4 Primary provision, he shared important considerations about the potential price tag and delayed election results for enacting Ranked Choice Voting. Secretary McGrane wrote this about the Top 4 primary section of the ballot measure:

“In writing to you, I aim to address some of the practical and fiscal implications of these proposed changes to our election process. Thus far, most of the arguments I have heard, both for and against the Initiative, have been philosophical in nature. There is good reason for this, as the proposed amendments aim to change how voters both engage and participate in the election process and how the final selection represents voters' will in representation for these offices. While some have touched on the practical and fiscal implications, there are a few that I would not expect any non-election official to easily identify, and I want to make you aware of them before submission of arguments and the question being put before voters . . . From an administrative perspective, minimal changes would be required to transition from our current primary election process to the proposed Top Four Primary process at the county or state level. The same ballot design and tabulation systems could be used, and rather than identifying the top vote-getter for each party primary, the four candidates with the most votes would be identified. In many instances,

*The cost to implement ranked choice voting in Idaho is estimated to be \$25-40 million.*

<sup>6</sup> “Idahoans For Open Primaries and Reclaim Idaho v. Raúl R. Labrador and Phil McGrane,” Idaho State Supreme Court, August 10, 2023, available at <https://isc.idaho.gov/opinions/50940.pdf>

<sup>7</sup> “Delays and dollars: Ranked Choice Voting's stunning Idaho cost,” Mountain States Policy Center, July 15, 2024, available at <https://www.mountainstatespolicy.org/delays-and-dollars-how-ranked-choice-voting-could-hamper-idaho-elections>

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counties may save money with this process as it would require fewer unique ballot styles by not having separate pre-printed ballots for each political party and non-partisan ballots at each polling location.”

Secretary McGrane identified several considerations for the Ranked Choice Voting part of the ballot measure:

“The changes required to implement the Instant Runoff Voting process for the general election are much more significant. This process has two parts: public awareness and ballot tabulation . . . Transitioning vote tabulation systems would be a very significant undertaking . . . based on previous purchases made by counties, it would likely cost at least \$25M to \$40M dollars to replace the existing equipment throughout the state. The final consideration regarding tabulation is the coordination between counties.

Currently, each county conducts and tabulates its election results and then uploads the final results to the state election night results reporting tool. In order to process the multiple rounds of vote tabulation required by the proposed Instant Runoff Voting process, ballots would have to be centrally aggregated and processed, or ballot image information would have to be electronically shared to tabulate races that cross county lines. To establish the candidate receiving the fewest votes and subsequently eliminated in a round of tabulation, all the votes from each county involved need to be aggregated to ensure the same candidate is eliminated across all involved counties . . . As a result, we would need to develop a procedure to centralize the information required to process the multiple rounds of tabulation. This can be done, but it will take longer to produce initial election results (i.e., it will take longer for the public and candidates to know the winners of races).”

*According to the National Conference of State Legislatures (NCSL), “primaries can be categorized as closed, partially closed, partially open, open to unaffiliated voters, open or multi-party.”*

### How each state conducts primary elections

According to the National Conference of State Legislatures (NCSL), “primaries can be categorized as closed, partially closed, partially open, open to unaffiliated voters, open or multi-party.” Here is how NCSL classifies each state’s primary system:<sup>8</sup>

- Multi-Party Primaries (Including Top-Two and Similar Systems) – 5 states: “A small but growing number of states hold a single primary in which all candidates, regardless of party, are listed on a single ballot.”

<sup>8</sup> “State Primary Election Types,” NCSL, February 6, 2024, available at <https://www.ncsl.org/elections-and-campaigns/state-primary-election-types>

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*15 states offer open primaries, while 7 others have primaries open to unaffiliated voters.*

State	Primary Type
Alaska	Top Four
California	Top Two
Louisiana	All-Comers
Nebraska	Nonpartisan/Open
Washington	Top Two

□ Open Primaries – 15 states: “In an open primary, voters choose which party’s ballot to vote, but this decision is private and does not register the voter with that party.”

- Alabama
- Arkansas
- Georgia
- Hawaii
- Michigan
- Minnesota
- Mississippi
- Missouri
- Montana
- North Dakota
- South Carolina
- Texas
- Vermont
- Virginia
- Wisconsin

□ Open to Unaffiliated Voters – 7 states: “Many states allow unaffiliated voters to participate in any party primary they choose, but do not allow voters who are registered with one party to vote in another party’s primary.”

- Arizona
- Colorado
- Maine
- Massachusetts
- New Hampshire
- North Carolina
- Rhode Island

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*Four states have partially open primaries, nine states have partially closed primaries, and 10 states have closed primaries.*

- Partially Open – 4 states: “This system permits voters to cross party lines, but their ballot choice may be regarded as a form of registration with the corresponding party.”
  - Illinois
  - Indiana
  - Iowa
  - Ohio
  
- Partially Closed – 9 states: “In this system, state law permits political parties to choose whether to allow unaffiliated voters or voters not registered with the party to participate in their nominating contests before each election cycle.”
  - Connecticut
  - Idaho
  - Kansas
  - Maryland
  - Oklahoma
  - Oregon
  - South Dakota
  - Utah
  - West Virginia
  
- Closed Primaries – 10 states: “In general, a voter seeking to vote in a closed primary must be a registered party member.”
  - Delaware
  - Florida
  - Kentucky
  - Nevada
  - New Jersey
  - New Mexico
  - New York
  - Pennsylvania
  - Tennessee
  - Wyoming

If Proposition 1 is enacted, Idaho would be moving from a “partially closed” primary that is currently used by nine states, to a “multi-party primary” that is



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*Alaska may repeal its RCV system that was narrowly enacted in 2020 with a new ballot proposal this year.*

*Although Washington state already has a Top Two open primary process, there have been proposals in recent years to try to impose Ranked Choice Voting (RCV) in the state again.*

used by five states. Alaska voters, however, may repeal their RCV system that was narrowly enacted in 2020 with a new ballot proposal this year.

### **What is RCV?**

Unlike the traditional election process where you vote for one candidate, under a Ranked Choice Voting system, an individual ranks the candidates on the ballot in order of preference. If no candidate receives 50% of the votes, the counting process starts over, eliminating the candidate who did the worst and re-distributing the votes based on the next choice listed. The process is repeated until a candidate wins a majority of the votes cast. If a voter doesn't rank all the candidates, however, their ballots may become "exhausted." These "exhausted" votes are often thrown out.

As explained by Ballotpedia:

“The term ballot exhaustion is used to describe situations in which a ballot is no longer countable because all of the candidates marked on the ballot are no longer in the contest. This can occur in some forms of ranked-choice voting. In cases where a voter has ranked only candidates that did not make it to the final round of counting, the voter's ballot is said to have been exhausted.”

It is estimated that some 10% of votes are discarded or “exhausted” in a ranked choice voting election.<sup>9</sup> In a 2010 San Francisco ranked choice voting election, nearly 10,000 votes were “exhausted.”<sup>10</sup>

### **National concerns about Ranked Choice Voting**

Although Washington state already has a Top Two open primary process, there have been proposals in recent years to try to impose Ranked Choice Voting (RCV) in the state again.<sup>11</sup> A previous local experiment with RCV was quickly repealed by 71% of Pierce County voters.<sup>12</sup> Though a strong advocate for the Evergreen State's Top 2 Primary, Washington Secretary of State Steve Hobbs is adamantly opposed to Ranked Choice Voting.

Concerned about the new RCV proposals, Secretary Hobbs recently penned a statewide op-ed titled: “Ranked-choice voting sounds good. But here's why it

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<sup>9</sup> Ranked Choice Voting: A risk voters shouldn't take, Freedom Foundation of Minnesota, available at <https://freedomfoundationofminnesota.com/wp-content/uploads/2021/07/RCV-Freedom-Foundation-of-Minnesota-V2.pdf>

<sup>10</sup> City and County of San Francisco, Department of Elections, November 2, 2010, Consolidated Statewide Direct Primary Election, Board of Supervisors, District 10 available at <https://sfelections.org/results/20101102/data/d10.html>

<sup>11</sup> “Top 2 Primary: FAQs for Voters,” Washington Secretary of State, available at <https://www.sos.wa.gov/elections/voters/helpful-information/top-2-primary-faqs-voters>

<sup>12</sup> “Pierce voters nix ‘ranked-choice voting’,” Washington Secretary of State, November 10, 2009, available at <https://blogs.sos.wa.gov/fromourcorner/index.php/2009/11/pierce-voters-nix-ranked-choice-voting/>

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*29% of voters don't rank multiple candidates in ranked-choice elections.*

would disenfranchise voters.” Secretary Hobbs and Spokane County Auditor Vicky Dalton wrote:

“Before signing onto ranked-choice voting, we ask that you listen to the experts who ensure every Washington voter counts. It is not simple to convert elections from checking one box to ranking several choices. Washington’s developmentally disabled adults, including Secretary Hobbs’ son, can and do vote. For many people, it requires significant effort to pick one candidate per race. Ranking multiple choices is a more complicated task. People new to American democracy face similar challenges to understanding the system. Secretary Hobbs’ mother faced this struggle as a new immigrant.

Even advocates of changing voting methods have conceded that 29% of voters don’t rank multiple candidates in ranked-choice elections. This means nearly a third of ballots have reduced influence, an unacceptable deprivation. In findings released earlier this year, Princeton University professor Nolan McCarty examined ranked-choice elections in New York City and Alaska and found that minority voters are disproportionately shortchanged by this construct.”<sup>13</sup>

Here is a quote from the Princeton University professor who conducted the RCV study referenced by Secretary Hobbs:

“In recent years, ranked choice voting has been hyped as a solution to many perceived problems in American elections. Unfortunately, the hype has often outpaced the evidence. My research raises major concerns about whether RCV may work to further reduce the electoral influence of racial and ethnic minority communities.”<sup>14</sup>

Secretary Hobbs provided these additional comments about the difference between open primaries and RCV:

“Ranked-choice voting adds a layer of complexity to voting that threatens to disenfranchise people who aren’t experts at the process. This includes people living with developmental disabilities – such as my son – for whom choosing one candidate is more straightforward than figuring out how to rank a list of them. Additionally, it can be a challenge for newly-naturalized citizens to adapt to American elections.

Converting some elections to ranked-choice voting would increase the obstacles to exercising their rights as Americans. Top-two primaries

<sup>13</sup> “Ranked-choice voting sounds good. But here’s why it would disenfranchise voters,” Tri-City Herald, May 3, 2024, available at <https://www.tri-cityherald.com/opinion/opn-columns-blogs/article288203085.html>

<sup>14</sup> “Ranked-Choice Voting Hurts Minorities: Study,” Center for Election Confidence, January 11, 2024, available at <https://electionconfidence.org/2024/01/11/ranked-choice-voting-hurts-minorities-study/>

present none of these challenges. You pick your favorite, then you send in your ballot. That’s something people can easily grasp. I stand firmly behind Top Two and encourage other states to learn from our usage of it.”<sup>15</sup>

These comments are similar to what former California Governor Jerry Brown said when vetoing a RCV bill in 2016:

“In a time when we want to encourage more voter participation, we need to keep voting simple. Ranked-choice voting is overly complicated and confusing. I believe it deprives voters of genuinely informed choice.”<sup>16</sup>

Montana’s Secretary of State Christi Jacobsen has also spoken out against Ranked Choice Voting. Secretary Jacobsen said:

“I have serious concerns with the efforts funded with dark money to impose Ranked Choice Voting. It is a very deceptive practice and would undermine all of our efforts to secure our elections in Montana. It would also create serious voter confusion and frustration.

For example, following implementation of RCV in Alaska, my Alaskan election colleagues referred to it as ‘the biggest nightmare they’ve ever had to deal with’ – so much in fact, that Alaska is currently in the process of getting RCV repealed. Studies have shown that RCV can decrease voter turnout, create distrust in the process, and disenfranchise voters, specifically minorities.

With RCV, you are essentially forced to vote for someone you would never vote for or endorse to begin with. Montana has very well-run elections, the best in the nation. We have implemented laws that enforce election integrity and confidence of elections in our state. We will not allow any implementation of Ranked Choice Voting to weaken our strong elections.”<sup>17</sup>

### **Possible single-subject violation by combining Ranked Choice Voting with a Top 4 primary**

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<sup>15</sup> “Open Primaries and Ranked Choice Voting: A Conversation with WA’s Secretary of State,” Mountain States Policy Center, September 15, 2023, available at <https://www.mountainstatespolicy.org/open-primaries-and-ranked-choice-voting-a-conversation-with-wa-s-secretary-of-state>

<sup>16</sup> “Brown vetoes bill to broaden ranked-choice voting in California,” San Francisco Gate, September 30, 2016, available at <https://www.sfgate.com/politics/article/Brown-vetoes-bill-to-broaden-ranked-choice-voting-9518031.php>

<sup>17</sup> “Montana’s Secretary of State details her opposition to Ranked Choice Voting,” Mountain States Policy Center, June 12, 2024, available at <https://www.mountainstatespolicy.org/montana-s-secretary-of-state-details-her-opposition-to-ranked-choice-voting>

*Montana's Secretary of State Christi Jacobsen has also spoken out against Ranked Choice Voting.*

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*Idaho Attorney General Raúl Labrador filed a pre-election lawsuit attempting to keep the measure off the ballot.*

*Should the voters adopt Proposition 1, a legal challenge concerning whether it violates the state's single-subject restriction would then be ripe for legal review.*

Concerned that Ranked Choice Voting and a Top 4 primary are two different topics, Idaho Attorney General Raúl Labrador filed a pre-election lawsuit attempting to keep the measure off the ballot. The Attorney General argued that the proposal violates the state constitution's single-subject requirement. On August 13, the Idaho State Supreme Court rejected this pre-election challenge saying:

“The Attorney General argues that the Initiative violates the single-subject rule because it has two distinct and unrelated objects: (1) ‘to overhaul the primary election by abolishing the party-run framework’ and (2) ‘to institute ranked-choice voting in the general election.’ Although both objects concern elections, the Attorney General asserts that these two objects have no necessary connection or relation with each other because ‘[a] top four primary has nothing do with how votes are tabulated in the general election, and its implementation is unrelated to adopting a ranked-choice voting system.’ He also argues that ‘bundling’ what he contends is an unpopular proposal (ranked-choice voting) with a proposal with broader appeal (a top four primary) is a clear example of ‘logrolling’ because it will force voters to ‘vote for a proposal they oppose in order to secure the passage of one they support.’ Even if we assume this argument properly invokes this Court’s original jurisdiction, an issue we need not address, we decline the Attorney General’s request to determine whether the Initiative violates Idaho’s single-subject rule because the issue is not ripe and, therefore, presents no justiciable controversy... We note that our holding today is consistent with prior cases in which we have considered single-subject rule challenges to constitutional amendments and legislative acts only after those amendments and laws were enacted.”<sup>18</sup>

This means that should the voters adopt Proposition 1, a legal challenge concerning whether it violates the state’s single-subject restriction would then be ripe for legal review.

### Conclusion

Taxpayer-funded elections don’t belong to private political groups. Moving a state’s election system to a clean open primary or multi-party primary (preferably Top 2) is a debate worth having. In general, there aren’t major policy concerns with a Top 2 primary like Washington and California have (also currently under consideration in South Dakota).<sup>19</sup>

<sup>18</sup> “Raúl R. Labrador v. Idahoans For Open Primaries and Reclaim Idaho,” Idaho State Supreme Court, August 13, 2024, available at <https://isc.idaho.gov/opinions/52089.pdf>

<sup>19</sup> “Secretary of State validates top-two primary ballot question,” SDPB, May 22, 2024, available at <https://www.sdpb.org/politics/2024-05-22/secretary-of-state-validates-top-two-primary-ballot-question>

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*All eligible voters should be able to participate in a taxpayer-funded election. Adopting open primaries, however, should not be limited to a take-it-or-leave-it proposition tied to the controversy of Ranked Choice Voting.*

In 2008, Justice Thomas wrote the U.S. Supreme Court opinion upholding that type of multi-party primary because they aren't party nominating processes but instead structured to advance the two candidates with the most support to the general election.<sup>20</sup> A Top 4 primary is more challenging as a policy, however, as it almost requires by design either a candidate winning without 50% or some type of runoff election. Currently, only Alaska uses a Top 4 primary but that system may be repealed by voters this year.

All eligible voters should be able to participate in a taxpayer-funded election. Adopting open primaries, however, should not be limited to a take-it-or-leave-it proposition tied to the controversy of Ranked Choice Voting. Unfortunately, by combining these separate topics, Proposition 1 does not provide voters with the option to adopt open primaries without also imposing the problems associated with Ranked Choice Voting.

**Nothing in this publication shall be construed as an attempt to aid or hinder the passage of any legislation.**

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<sup>20</sup> "U.S. Supreme Court reinstates Washington's Top-Two Primary," Washington State Attorney General, May 17, 2008, available at <https://www.atg.wa.gov/news/news-releases/us-supreme-court-reinstates-washington-s-top-two-primary>

# ABOUT THE AUTHOR

Jason Mercier has more than 20 years experience working with public officials, media, and citizen stakeholders across the nation to improve the fiscal, governance and transparency policies of local and state governments. He spent the last 16 years as the Director of the Center for Government Reform at Washington Policy Center.



Jason has been appointed by lawmakers and governors to various tax, budget and transparency reform committees. He is a Fellow with the national Better Cities Project and is also a member of the State Tax Advisory Board for the Tax Foundation. Jason has testified numerous times before legislative committees across the country on government reform issues, and his op-eds have been published in numerous newspapers across the region.

When he's not geeking out on studies and audits, Jason's life revolves around his wife and two daughters and the 49ers' schedule.

