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Minnesota group takes aim at Aspen's election

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A Minnesota group which says instant runoff voting is unconstitutional said it plans to file a federal lawsuit challenging Aspen's May election and the voting system it used.

"This is the essence of the main argument against IRV — your vote can be changed in its value and effect by the votes cast by others," the directors of the group Minnesota Voters Alliance wrote in an op-ed in the St. Paul (Minn.) Pioneer Press. The column, published July 22, says a legal challenge of the Aspen results should be ready by early August. The group also plans to challenge this November's Minneapolis municipal election, the first election where that city will use IRV to pick its mayor and city council.

Andy Cilek, who co-authored the piece, said that legal challenge should be forthcoming by early September.

The group has enlisted about eight local people in support of its cause, Cilek said, including council candidate Michael Behrendt, whose loss in the election may or may not have been affected by a quirk of instant runoff voting. **An analysis of the May election results show that if 75 people who had voted for Behrendt as their first choice had instead voted for him as their second-place choice, he would have won the election.**

Behrendt described the IRV system as a "miserable, terrible mess."

Behrendt said he thought the city got good council members from the May election in Torre and Derek Johnson, and that the city was acting in good faith to create what it thought would be a good system. But the system is "certainly not transparent," he said.

He said he would happily be a witness in the lawsuit in an effort to snuff out IRV.

Jim True, special counsel to the city of Aspen who oversaw the development of Aspen's IRV system, defended the system, and said it did not cost Behrendt the election. In any system that has a runoff election, instant or otherwise, there is a chance you could hurt your preferred candidate by voting for them, True said.

Word of the Minnesota group's intention to file a lawsuit came out at a Tuesday Aspen City Council work session where council members were deciding whether a question on the November ballot asking voters if they liked IRV should be binding or not. The council went with the nonbinding option, but since changing IRV requires a binding charter amendment question, council members said they might support a special election in spring 2010 if voters said they wanted to change last May's system.

During the meeting, Mayor Mick Ireland took umbrage over an out-of-state group challenging the Aspen election.

“I resent the Minnesota Voters Alliance coming in and telling me how to run my elections,” Ireland said. “I don’t go to Minneapolis/St. Paul and tell them how to run their elections.”

Cilek said his group’s lawsuit is nothing personal against the mayor or Aspen.

“Our goal is to work toward setting a national precedent,” Cilek said, noting the national stature of Fair Vote, a Maryland-based group that came to Aspen and successfully lobbied the city to support IRV. Burlington, Vt., San Francisco and Pierce County, Wash., have also adopted some form of IRV.

Potential legal challenges aside, council members said they might be thinking twice about IRV.

Councilman Steve Skadron said that it’s unfortunate last May’s election did not have the extra month of runoff campaigning, where the three or four top candidates would have made for more focused debate. Instead, during the debates, voters got hour-and-a-half affairs where each of the nine candidates had about 15 minutes total of speaking time.

Ireland, who has been a staunch supporter of IRV, noted the difficulty in having a large field of candidates that does not get smaller as voters make their choices known, as what happens in Democratic and Republican presidential primaries.

But voters — who by a 76 percent margin approved a charter amendment instituting IRV in the November 2007 election — will have another chance to tell the city how they feel, and if it has changed after seeing IRV in practice. This fall’s election will be conducted only by mail-in ballot, another new system for Pitkin County which made council members hesitant to make the November IRV question binding.

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