

FIRST REGULAR SESSION

HOUSE BILL NO. 1137

101ST GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE STACY.

0882H.05I

DANA RADEMAN MILLER, Chief Clerk

AN ACT

To amend chapter 115, RSMo, by adding thereto two new sections relating to instant runoff voting.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Chapter 115, RSMo, is amended by adding thereto two new sections, to be known as sections 115.444 and 115.1040, to read as follows:

115.444. 1. This section shall be known and may be cited as the "Every Vote Counts in Local Elections Act".

2. As used in this section, the following terms mean:

(1) "Continuing ballot", a ballot that has not been exhausted by the instant runoff vote;

(2) "Continuing candidate", a candidate who has not been eliminated by the instant runoff vote;

(3) "Exhausted ballot", a ballot on which all votes cast are for candidates who have been eliminated;

(4) "Instant runoff voting", a procedure of voting as described under this section that requires a candidate to receive a majority rather than a plurality of all votes cast for a local elected office before the candidate wins the election and that allows voters to cast votes for candidates on a ranked-choice ballot;

(5) "Local election", an election for county office in a county with a charter form of government and with more than nine hundred fifty thousand inhabitants or an election for a local office in any political subdivision or special district wholly contained in such county;

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

18 **(6) "Ranked-choice ballot" or "ballot", a ballot that allows voters to cast a vote for**
19 **multiple candidates in order of preference by assigning a rank to each candidate for the**
20 **office.**

21 **3. Votes for all candidates in a local election shall be counted and recorded as**
22 **provided in this chapter and shall be certified in the following manner:**

23 **(1) Each ranked-choice ballot shall be counted as one vote for the continuing**
24 **candidate whom the voter selects as the voter's highest preference of continuing candidates.**
25 **A candidate shall not receive a vote after such candidate has been eliminated in instant**
26 **runoff voting. A candidate for whom the voter noted a lower preference shall not receive**
27 **a vote unless and until that candidate is the continuing candidate with the highest**
28 **preference on the voter's ranked-choice ballot;**

29 **(2) If a candidate receives a majority of the votes cast in the first count of instant**
30 **runoff votes, that candidate shall be certified as the winner;**

31 **(3) If no candidate receives a majority of votes after the first count of instant runoff**
32 **votes, the candidate who received the fewest votes shall be eliminated, and each vote cast**
33 **for such eliminated candidate shall be redistributed to the continuing candidate whom the**
34 **voter noted as the voter's next highest preference. If, after this redistribution of votes, any**
35 **continuing candidate receives a majority of the votes cast on the continuing ballots, that**
36 **continuing candidate shall be certified as the winner;**

37 **(4) If no candidate receives a majority of the votes cast on the continuing ballots**
38 **after the procedure described in subdivision (3) of this subsection, the continuing candidate**
39 **who received the fewest votes shall be eliminated. Each vote cast for such eliminated**
40 **candidate shall be redistributed to the continuing candidate whom the voter noted as the**
41 **voter's next highest preference. This process of eliminating the candidate with the fewest**
42 **votes and redistributing such eliminated candidate's votes to the voter's next highest**
43 **preferred continuing candidate shall be repeated until a candidate receives a majority of**
44 **the votes cast on the continuing ballots;**

45 **(5) If the total number of votes for the two or more candidates credited with the**
46 **lowest number of votes is fewer than the number of votes credited to the continuing**
47 **candidate with the next highest number of votes, those candidates with the lowest number**
48 **of votes shall be eliminated simultaneously and their votes transferred to the next ranked**
49 **continuing candidate on each ballot in a single counting operation; and**

50 **(6) A tie between two or more candidates shall be resolved by weighting the**
51 **preference of votes for each candidate and decided in favor of the candidate who received**
52 **more votes at a higher preference. If a tie still exists between two or more candidates, the**
53 **tie shall be resolved by the drawing of lots conducted by the election authority and votes**

54 of the eliminated candidate shall be redistributed to the continuing candidate whom the
55 voter selected as the voter's next highest preference.

56 4. For elections in which more than one candidate is to be elected to an office in a
57 multiple-seat district or on a governing body that includes multiple at-large seats, a
58 ranked-choice ballot shall be used. The ballots shall be counted and certified in the
59 following manner:

60 (1) Each candidate shall be treated separately to determine the highest preference
61 among the candidate field;

62 (2) The candidate who received the fewest first choices shall be eliminated and each
63 vote cast for that eliminated candidate shall be redistributed to the continuing candidate
64 whom the voter noted as the voter's next highest preference;

65 (3) The process under subdivision (2) of this subsection shall be repeated until only
66 two candidates remain and one candidate receives the majority of votes;

67 (4) Ties shall be resolved by applying the method described in subdivision (6) of
68 subsection 3 of this section; and

69 (5) After a candidate receives a majority of votes under subdivision (3) of this
70 subsection, such candidate shall be certified and removed from the candidate pool as if the
71 candidate received the fewest votes. The process in this subdivision shall be repeated until
72 all seats are filled.

73 5. If the voting system used by an election authority cannot feasibly accommodate
74 choices equal to the total number of candidates running for each office, the election
75 authorities may limit the number of choices a voter may rank to no fewer than three per
76 open seat. The ballot shall in no way interfere with a voter's ability to cast a write-in vote
77 for a candidate.

78 6. No exhausted ballot shall be counted in further stages of the tabulation. If a
79 ranked-choice ballot gives equal rank to two or more candidates, the ballot shall be
80 declared exhausted if such multiple rankings are reached. If a voter casts a ranked-choice
81 ballot but skips a rank, the voter's vote shall be transferred to that voter's next ranked
82 choice.

83 7. Any election dispute regarding the implementation of a limit on the number of
84 ranked candidates on a ballot under subsection 5 of this section shall be first appealed to
85 the secretary of state for a final order and thereafter may be appealed to any court of
86 competent jurisdiction. All other election disputes shall proceed as established in this
87 chapter.

88 8. All statutes and regulations governing voting procedures and ballots under this
89 chapter shall govern instant runoff voting and ranked-choice ballots.

90 **9. The election authority shall conduct a voter education campaign to familiarize**
91 **voters with instant runoff voting systems and ranked-choice ballots. The voter education**
92 **campaign may be conducted through existing voter outreach channels.**

93 **10. The secretary of state may promulgate rules as necessary for the**
94 **implementation of this section. Any rule or portion of a rule, as that term is defined in**
95 **section 536.010, that is created under the authority delegated in this section shall become**
96 **effective only if it complies with and is subject to all of the provisions of chapter 536 and,**
97 **if applicable, section 536.028. This section and chapter 536 are nonseverable, and if any**
98 **of the powers vested with the general assembly pursuant to chapter 536 to review, to delay**
99 **the effective date, or to disapprove and annul a rule are subsequently held**
100 **unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted**
101 **after August 28, 2021, shall be invalid and void.**

115.1040. 1. Beginning January 1, 2022, and notwithstanding any other provisions
2 **of law to the contrary, election authorities shall implement instant runoff voting for local**
3 **elections under this section and section 115.444. A political subdivision, special district, or**
4 **county that is subject to this section may opt out of the instant runoff requirements of this**
5 **section by ordinance or rule, provided that written notice of such action is transmitted to**
6 **the election authority no later than thirty days prior to the filing deadline for placing any**
7 **candidate or measure on the ballot. An election authority may use multiple ballot styles**
8 **or ballots in order to accommodate the counting of votes under this section.**

9 **2. The secretary of state shall examine and certify the instant runoff voting system**
10 **under the provisions of section 115.225 and applicable federal standards. The instant**
11 **runoff voting system shall be certified by the secretary of state before it is implemented.**

12 **3. The secretary of state may allow the submission of a new voting system by the**
13 **election authority as defined in section 115.013 to accommodate instant runoff voting, but**
14 **shall require independent testing and certification and retention of records for any**
15 **modifications made to existing voting systems. The voting program implemented for local**
16 **elections under this section and section 115.444 shall be an open source universal tabulator**
17 **and local election authorities shall provide any requested data on its operation, which shall**
18 **be a public record, to the Missouri secretary of state and to any individual requesting such**
19 **data under chapter 610. The use of an open-source universal tabulator is mandatory and**
20 **shall not impede certification of a voting system or any component thereof under this**
21 **section.**

22 **4. Upon implementation of the instant runoff voting system, the local election**
23 **authority shall be required to verify the election results using statistically random sample**
24 **sizes to limit the margin of error to less than one percent.**

25 **5. The election authority shall submit a report to the secretary of state and the**
26 **general assembly about the process of implementing instant runoff voting and containing**
27 **the data obtained under subsection 4 of this section. The first report shall be submitted no**
28 **later than the end of the calendar year in which results of the first election to use instant**
29 **runoff voting are certified. Thereafter, reports shall be filed by the election authority**
30 **based on the certified results for the four subsequent elections held using instant runoff**
31 **voting. Each report shall be submitted no later than the end of the calendar year in which**
32 **the requisite election result was certified.**

33 **6. The secretary of state may promulgate rules as necessary for the implementation**
34 **of this section. Any rule or portion of a rule, as that term is defined in section 536.010, that**
35 **is created under the authority delegated in this section shall become effective only if it**
36 **complies with and is subject to all of the provisions of chapter 536 and, if applicable,**
37 **section 536.028. This section and chapter 536 are nonseverable, and if any of the powers**
38 **vested with the general assembly pursuant to chapter 536 to review, to delay the effective**
39 **date, or to disapprove and annul a rule are subsequently held unconstitutional, then the**
40 **grant of rulemaking authority and any rule proposed or adopted after August 28, 2021,**
41 **shall be invalid and void.**

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