

By: Ogden

S.B. No. 1025

A BILL TO BE ENTITLED

AN ACT

relating to the votes required for a candidate to be elected to office.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. The heading to Subchapter A, Chapter 2, Election Code, is amended to read as follows:

SUBCHAPTER A. VOTE REQUIRED FOR ELECTION GENERALLY [~~BY PLURALITY~~]

SECTION 2. Section 2.001, Election Code, is amended to read as follows:

Sec. 2.001. [~~PLURALITY~~] VOTE REQUIRED GENERALLY. (a) Except as otherwise provided by law, to be elected to a public office:

(1) [~~7~~] a candidate must receive more votes than any other candidate for the office; and

(2) for an office other than a federal office, the amount by which the number of votes cast for the candidate receiving the highest number of votes exceeds the number of votes cast for the candidate receiving the second highest number of votes must be greater than or equal to one percent of the number of votes cast in that election.

(b) If a candidate does not receive the number of votes required by Subsection (a)(2), the candidate receiving the highest number of votes and the candidate receiving the second highest number of votes are considered to have tied for the highest number of votes.

1 SECTION 3. Subchapter A, Chapter 2, Election Code, is
2 amended by adding Section 2.0011 to read as follows:

3 Sec. 2.0011. MAJORITY VOTE REQUIREMENT. (a) If another
4 provision of this code or a law outside this code requires a
5 candidate for office to receive a majority of the total number of
6 votes received by all candidates for the same office, the candidate
7 receives the number of votes required to be elected to that office
8 only if the amount by which the number of votes cast for the
9 candidate receiving the highest number of votes exceeds the number
10 of votes cast for the candidate receiving the second highest number
11 of votes is greater than or equal to one percent of the number of
12 votes cast in that election.

13 (b) This section prevails to the extent of a conflict
14 between this section and any other law.

15 (c) This section does not apply to a candidate for a federal
16 office.

17 SECTION 4. Sections 2.002(a) and (f), Election Code, are
18 amended to read as follows:

19 (a) Except as provided by Subsection (f), (g), or (i), in an
20 election not requiring a majority [~~plurality~~] vote, if two or more
21 candidates for the same office tie or are considered under Section
22 2.001(b) to tie for the number of votes required to be elected, a
23 second election to fill the office shall be held.

24 (f) This subsection does not apply to candidates who are
25 considered to have tied under Section 2.001(b) but did not actually
26 receive the same number of votes. The tying candidates may agree to
27 cast lots to resolve the tie. The agreement must be filed with the

1 authority responsible for ordering the election. That authority
2 or, if the authority is a body, the body's presiding officer, shall
3 supervise the casting of lots.

4 SECTION 5. Section 2.028, Election Code, is amended by
5 adding Subsection (d) to read as follows:

6 (d) If the amount by which the number of votes cast for the
7 candidate receiving the highest number of votes in a runoff
8 election exceeds the number of votes cast for the candidate
9 receiving the second highest number of votes is not greater than or
10 equal to one percent of the number of votes cast in that election,
11 the candidates are considered to have tied for the highest number of
12 votes.

13 SECTION 6. Section 145.005(c), Election Code, is amended to
14 read as follows:

15 (c) If the deceased or ineligible candidate and another
16 candidate tie or are considered to have tied under Section 2.001(b)
17 for the most votes in an election in which a majority [plurality]
18 vote is not required [sufficient] for election, the other candidate
19 is considered to be elected. If more than one other candidate is
20 tied with the deceased or ineligible candidate, the winner of the
21 election shall be determined by resolving the tie between the other
22 candidates in the regular manner for resolving a tie vote in the
23 election.

24 SECTION 7. Section 212.136(a), Election Code, is amended to
25 read as follows:

26 (a) Except as provided by Subsection (c), write-in votes
27 cast in connection with a voting system shall be excluded from a

1 recount of an election in which a majority [~~plurality~~] vote is not
2 required [~~sufficient~~].

3 SECTION 8. The changes in law made by this Act apply only to
4 an election held on or after September 1, 2009. An election held
5 before September 1, 2009, is governed by the law in effect on the
6 date the election was held, and the former law is continued in
7 effect for that purpose.

8 SECTION 9. This Act takes effect September 1, 2009.