

HOUSE BILL NO. 1436

100TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE STACY.

4121H.011

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 elected office", any office that requires voters go to the polls to elect candidates including, but not limited to, local offices such as any county, township, city, town, village, fire district, library district, port authority, school district, or special district;

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.

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

20 **3. All primary and general elections for local elected office in the state of Missouri**
21 **shall use ranked-choice ballots and instant runoff voting. No candidate for any local**
22 **elected office shall be nominated or certified under this chapter unless such candidate**
23 **receives a majority of the votes cast in the election for such local elected office.**

24 **4. Votes for all candidates for local elected office shall be counted and recorded as**
25 **provided in this chapter and shall be certified in the following manner:**

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

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

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

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

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

53 (6) A tie between two or more candidates shall be resolved by weighting the
54 preference of votes for each candidate and decided in favor of the candidate who received
55 more votes at a higher preference. If a tie still exists between two or more candidates, the
56 tie shall be resolved by a coin flip conducted by the elections commission and votes of the
57 eliminated candidate shall be redistributed.

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

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

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

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

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

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

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

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

85 8. Any election dispute regarding the implementation of a limit on the number of
86 ranked candidates on a ballot under subsection 6 of this section shall be first appealed to
87 the secretary of state for a final order and thereafter may be appealed to any court of

88 competent jurisdiction. All other election disputes shall proceed as established in this
89 chapter.

90 9. All statutes and regulations governing voting procedures and ballots under this
91 chapter shall govern instant runoff voting and ranked-choice ballots.

92 10. The secretary of state shall conduct a voter education campaign to familiarize
93 voters with the instant runoff voting system and ranked-choice ballots.

94 11. On the effective date of this section, any voting machine not compatible with
95 ranked-choice voting that is removed from the election authority's inventory due to
96 mechanical malfunction, wear and tear, or any other reason shall not be replaced. No
97 additional voting machines not compatible with ranked-choice voting shall be added to the
98 election authority's inventory. The provisions of this subsection shall not require the
99 breach of an existing contract.

100 12. Ranked-choice voting shall be applied by an election authority when a sufficient
101 inventory of ranked-choice voting compatible equipment is acquired through the
102 replacement of existing equipment under subsection 11 of this section.

103 13. Upon adoption of instant runoff voting under this section, the secretary of state
104 shall provide certification services to local election authorities. The certification shall
105 comply with the provisions of section 115.225 and federal requirements for certification
106 and independent testing. The secretary of state may allow the submission of a new voting
107 system to accommodate instant runoff voting, but shall require independent testing and
108 certification and retention of records for any modifications made to existing voting systems.
109 The manufacturer of the voting system shall retain legal authority to provide all software
110 data to the secretary of state.

111 14. The secretary of state may promulgate rules as necessary for the
112 implementation of this section. Any rule or portion of a rule, as that term is defined in
113 section 536.010, that is created under the authority delegated in this section shall become
114 effective only if it complies with and is subject to all of the provisions of chapter 536 and,
115 if applicable, section 536.028. This section and chapter 536 are nonseverable, and if any
116 of the powers vested with the general assembly pursuant to chapter 536 to review, to delay
117 the effective date, or to disapprove and annul a rule are subsequently held
118 unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted
119 after August 28, 2020, shall be invalid and void.

115.1040. 1. Beginning January 1, 2022, and notwithstanding any other provisions
2 of law to the contrary, a county with a charter form of government and with more than
3 nine hundred fifty thousand inhabitants may amend the county charter to allow for the

4 **implementation of instant runoff voting for county offices. The amendment shall comply**
5 **with the provisions of this section.**

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

9 **3. The secretary of state may allow the submission of a new voting system to**
10 **accommodate instant runoff voting, but shall require independent testing and certification**
11 **and retention of records for any modifications made to existing voting systems. The**
12 **manufacturer of the voting system shall retain legal authority to provide all software data**
13 **to the secretary of state.**

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

17 **5. The election authority shall be required to submit a report to the secretary of**
18 **state and the general assembly about the process of implementing instant runoff voting and**
19 **containing the data obtained under subsection 4 of this section. The first report shall be**
20 **submitted within one year after the results of the first election to use instant runoff voting**
21 **are certified. Additional reports shall be due within one year of certification of election**
22 **results for the four subsequent election cycles.**

23 **6. The secretary of state may promulgate rules as necessary for the implementation**
24 **of this section. Any rule or portion of a rule, as that term is defined in section 536.010, that**
25 **is created under the authority delegated in this section shall become effective only if it**
26 **complies with and is subject to all of the provisions of chapter 536 and, if applicable,**
27 **section 536.028. This section and chapter 536 are nonseverable, and if any of the powers**
28 **vested with the general assembly pursuant to chapter 536 to review, to delay the effective**
29 **date, or to disapprove and annul a rule are subsequently held unconstitutional, then the**
30 **grant of rulemaking authority and any rule proposed or adopted after August 28, 2020,**
31 **shall be invalid and void.**

✓