

BILL ANALYSIS

Senate Research Center
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S.B. 1025
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State Affairs
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As Filed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

When elections are close in votes, recounts are requested and unless they prove that a race was not as close as initially believed, voters and candidates often feel that errors may have cost a candidate the election.

As proposed, S.B. 1025 would treat as a tie an outcome in which the candidates who receive the first and second highest number of votes are separated by less than one percent of the votes cast in that race. It would not change the current treatment of a tie or what happens when a tie occurs.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends the heading of Subchapter A, Chapter 2, Election Code, to read as follows:

SUBCHAPTER A. VOTE REQUIRED FOR ELECTION GENERALLY

SECTION 2. Amends Section 2.001, Election Code, as follows:

Sec. 2001. New heading: VOTE REQUIRED GENERALLY. (a) Creates this subsection from existing text. Requires a candidate, except as otherwise provided by law, to be elected to a public office, to receive more votes than any other candidate for the office, and 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 is required to be greater than or equal to one percent of the number of votes cast in that election.

(b) Provides that 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.

SECTION 3. Amends Subchapter A, Chapter 2, Election Code, by adding Section 2.0011, as follows:

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

(b) Provides that this section prevails to the extent of a conflict between this section and any other law.

(c) Provides that this section does not apply to a candidate for a federal office.

SECTION 4. Amends Sections 2.002(a) and (f), Election Code, as follows:

(a) Requires that a second election be held, except as provided by Subsection (f), (g) (regarding authorizing a tying candidate to resolve the tie by filing with the authority described by Subsection (f)), or (i) (regarding requiring an automatic recount if the tie vote is not resolved under Subsection (f) or (g)), in an election not requiring a majority, rather than a plurality, vote, if two or more candidates for the same office tie or are considered under Section 2.001(b) to tie for the number of votes required to be elected.

(f) Provides that this subsection does not apply to candidates who are considered to have tied under Section 2.001(b), but did not actually receive the same number of votes.

SECTION 5. Amends Section 2.028, Election Code, by adding Subsection (d), to provide that if the amount by which the number of votes cast for the candidate receiving the highest number of votes in a runoff election exceeds the number of votes cast for the candidate receiving the second highest number of votes is not greater than or equal to one percent of the number of votes cast in that election, the candidates are considered to have tied for the highest number of votes.

SECTION 6. Amends Section 145.005(c), Election Code, to provide that if the deceased or ineligible candidate and another candidate tie or are considered to have tied under Section 2.001(b) for the most votes in an election in which a majority vote, rather than plurality vote, is not required for election, rather than is sufficient for election, the other candidate is considered to be elected. Requires that the winner of the election, if more than one other candidate is tied with the deceased or ineligible candidate, be determined by resolving the tie between the other candidates in the regular manner for resolving a tie vote in the election.

SECTION 7. Amends Section 212.136(a), Election Code, to require that write-in votes cast in connection with a voting system, except as provided by Subsection (c), be excluded from a recount of an election in which a majority vote is not required. Makes conforming changes.

SECTION 8. Makes application of this Act prospective.

SECTION 9. Effective date: September 1, 2009.