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H.175

Introduced by Representatives Kitzmiller of Montpelier, Zuckerman of
Burlington, Little of Shelburne, Nuovo of Middlebury, Pillsbury
of Brattleboro, Sweetser of Essex and Vinton of Colchester

Referred to Committee on

Date:

Subject: Elections; statewide and national offices; instant runoff method

Statement of purpose: This bill proposes to require a majority vote for election
to all statewide offices, and to conduct general elections for these offices using
the instant runoff method of voting and tabulating votes. Elections for United
States president, United States senator, and United States representative would
also be conducted and tabulated by the instant runoff method, but if no
candidate receives a majority after all tabulations are completed, the candidate
that receives the greatest number of votes would be declared the winner. In the
event that no candidate for governor, lieutenant governor, or treasurer receives
a majority of the votes, the general assembly would elect the officer while
having the assistance of the results of the instant runoff method.

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AN ACT RELATING TO ELECTION OF STATEWIDE AND
NATIONAL OFFICERS BY THE INSTANT RUNOFF METHOD

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It is hereby enacted by the General Assembly of the State of Vermont:

1 Sec. 2. 17 V.S.A. § 2473a is added to read:

2 § 2473a. INSTANT RUNOFF METHOD; APPLICATION; BALLOTS;

3 RULES

4 (a) Notwithstanding the provisions of section 2472 of this title to the
5 contrary, the instant runoff method shall be used in all general election contests
6 for the following offices when three or more candidates have qualified to have
7 their names printed on the ballot for that office: governor, lieutenant governor,
8 treasurer, secretary of state, auditor of accounts, attorney general, U.S. senator,
9 U.S. representative, president, and vice president.

10 (b) For purposes of subsection (a) of this section, the secretary of state
11 may, by rule:

12 (1) provide for the use of mechanical, electronic, or other devices for
13 marking, sorting, and counting the ballots, and tabulating the results;

14 (2) modify the form of the ballots and the directions to voters, including
15 limiting the number of choices each voter may indicate if the ballot design so
16 requires; and

17 (3) prescribe the details with respect to the method of marking, sorting,
18 counting, invalidating, and the tabulating of votes in sequential rounds,
19 provided that no change shall be made which will alter the intent or principles
20 embodied in this chapter.

1 (c) Ballots approved under this section shall be simple and easy to
2 understand, and shall allow a voter to rank candidates for an office in order of
3 choice. If practical, ballots shall be designed such that voters may mark their
4 first choices in the same manner as that for offices not using the instant runoff
5 method. If the secretary determines that the number of candidates for a
6 particular office exceeds the practical space requirements for ranking all
7 candidates on the ballot, the secretary may limit the number of choices the
8 voter may make. However, if there are three or more candidates for an office,
9 the secretary must provide for ranking at least three choices. Instructions on
10 the ballot shall include the following statement: “In addition to your
11 first-choice candidate, you may mark alternate runoff choices if you wish.
12 Marking a second choice cannot help defeat your first choice. Marking a
13 subsequent choice cannot help defeat your highest ranked choices.” Sample
14 ballots to illustrate voting procedures, using fictitious names, shall be posted in
15 or near the voting booth and included in the instruction materials for absentee
16 ballots.

17 Sec. 3. 17 V.S.A. § 2493(c) is added to read:

18 (c) In the case of elections conducted by the instant runoff method, the
19 secretary of state shall adopt rules to ensure that the arrangement of names,
20 offices, and choice on each type of machine conforms as nearly as practical to
21 the ballot design adopted by the secretary under section 2473a of this title.

1 Sec. 4. 17 V.S.A. § 2592 is amended to read:

2 § 2592. CANVASSING COMMITTEES; CANVASS OF VOTES IN
3 GENERAL OR SPECIAL ELECTIONS

4 * * *

5 (h) The In the case of candidates other than candidates for the offices of
6 governor, lieutenant governor, treasurer, secretary of state, auditor of accounts,
7 attorney general, U.S. senator, U.S. representative, president, and vice
8 president, the canvassing committee shall declare the person receiving the
9 largest number of votes for each office to be elected, and it shall issue a
10 certificate of election, signed by a majority of the canvassing committee, in
11 substantially the following form:

12 State of Vermont)

13) s.s.

14County)

15 At, on the day of ~~19....~~ 20...., a canvassing committee
16 appointed by law completed a canvass of the returns cast at a general election
17 held on the day of, ~~19....~~ 20.... for the office of The
18 committee hereby certifies that of was duly elected to
19 the office by the voters present and voting.

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1 The committee shall send or deliver the certificate to the candidate elected. In
2 the case of representatives to the general assembly, the committee shall also
3 send or deliver a copy of each certificate to the secretary of state.

4 * * *

5 (k) In the case of the offices of governor, lieutenant governor, treasurer,
6 secretary of state, ~~and~~ auditor of accounts, and attorney general, the canvassing
7 committee shall prepare a certificate of election but shall not sign it. The
8 prepared certificate shall be presented to the official canvassing committee
9 appointed by the general assembly, pursuant to Chapter II, section 47 of the
10 Vermont Constitution, for their use if they desire.

11 Sec. 5. 17 V.S.A. § 2592a is added to read:

12 § 2592a. INSTANT RUNOFF METHOD; INSTRUCTIONS FOR
13 TABULATING VOTES

14 (a) The provisions of section 2587 of this title shall apply to elections
15 conducted by the instant runoff method unless inconsistent with the provisions
16 of this section.

17 (b) The following procedures shall be used to determine the winners in
18 elections conducted by the instant runoff method:

19 (1) Ballots shall be counted initially by the election officials according
20 to the first choice marked on each ballot. If one candidate receives a majority
21 of the votes cast, the canvassing committee for state and national offices shall

1 issue a certificate of election in the manner provided in section 2592 of this
2 title. With respect to the presidential election, the certificates of election shall
3 be issued as provided in sections 2592 and 2731 of this title.

4 (2) If, at the end of the initial count, no candidate receives a majority of
5 first-choice votes cast, the canvassing committee shall forthwith petition the
6 Washington County superior court to determine the candidate who received the
7 major part of the votes by conducting instant runoff recounts in the manner
8 provided in this section. The petition shall be supported by a statement signed
9 by a majority of the committee stating that no candidate has received a
10 majority of first-choice votes. Upon receipt of the petition, the court shall
11 appoint an instant runoff count committee in the manner provided for
12 appointment of a recount committee under subsection 2602(a) of this title, and
13 follow substantially the same procedures provided for recounts under
14 subchapter 9 of chapter 51 of this title.

15 (3) The instant runoff count committee shall tabulate votes for
16 candidates by conducting runoff counts in rounds. If, in any round, no
17 candidate has received a majority of votes cast, then the candidate with the
18 fewest votes is eliminated and the remaining candidates advance to another
19 counting round. In every round, each ballot is counted as one vote for the
20 highest ranked advancing candidate on that ballot. This process shall continue

1 until one candidate receives a majority of votes cast, excluding blank and
2 spoiled votes, or there is only one candidate remaining.

3 (4) If, at any point a candidate receives a majority, the court shall issue a
4 certificate of election. In the case of the election of governor, lieutenant
5 governor, or treasurer, the court shall prepare the certificate of election, but
6 shall not sign it, and forward it to the official canvassing committee appointed
7 by the general assembly, pursuant to Chapter II, section 47 of the Vermont
8 Constitution, for its use if it desires. With respect to the presidential election,
9 the court shall prepare the certificate and forward it to the official canvassing
10 committee provided for in section 2592 of this title.

11 (5) If the last remaining candidate did not receive a majority of the votes
12 cast, excluding blank and spoiled votes, the court shall prepare a report of no
13 election. The report and the tabulations performed by the committee shall be
14 forwarded to the official canvassing committee appointed by the general
15 assembly, pursuant to Chapter II, section 47 of the Vermont Constitution, for
16 its use in the election of the governor, lieutenant governor, treasurer, secretary
17 of state, auditor of accounts, or attorney general, if it desires. The general
18 assembly shall proceed to elect one of the three candidates for whom the
19 greatest number of first-choice votes has been returned.

20 (6) Notwithstanding the provisions of subdivision (5) of this subsection:

1 (A) If the last remaining candidate in an election for the office of
2 U.S. senator or U.S. representative did not receive a majority, the report and
3 the tabulations performed by the instant runoff count committee shall be
4 forwarded to the canvassing committee provided for in section 2592 of this
5 title. The committee shall issue a certificate of election to the last remaining
6 candidate.

7 (B) If the last remaining candidate in an election for the office of
8 president or vice president did not receive a majority, the report and the
9 tabulations performed by the instant runoff count committee shall be
10 forwarded to the canvassing committee provided for in section 2592 of this
11 title. The committee shall issue a certificate of election to the electors
12 nominated by the party whose candidate for president or vice president is the
13 last remaining.

14 (7) In the case of an instant runoff count for the offices of governor,
15 lieutenant governor, or treasurer, all candidates other than the three with the
16 greatest number of first-choice votes shall be eliminated at the same time.

17 (c) The following general provisions shall apply whenever the instant
18 runoff method is used:

19 (1) The instant runoff count committee may, at the outset, accelerate the
20 process by eliminating all candidates with no mathematical possibility of
21 winning, and counting ballots that ranked those candidates first, as votes for

1 the highest-ranked advancing candidate for that office on each ballot.

2 Candidates with no mathematical possibility of winning are any two or more
3 candidates with the fewest first-choice votes whose combined total of first-
4 choice votes is less than the votes credited to the candidate with the next
5 greatest number of votes cast.

6 (2) If a ballot has no more available choices ranked on it, the ballot is
7 exhausted.

8 (3) If a ballot skips a number, the ballot is exhausted when the skipped
9 ranking is reached. A ballot giving two or more candidates the same ranking is
10 exhausted when that ranking is reached, unless only one of the candidates so
11 ranked has advanced to the current round of counting.

12 (4) In the case of a tie between candidates for last place, and thus
13 elimination, occurring at any stage in the tabulation, the tie shall be resolved so
14 as to eliminate the candidate who received the least number of votes at the
15 previous stage of the tabulation. In the case of a tie to which a previous stage
16 does not apply, or such previous stage was also a tie, the tie shall be resolved
17 by drawing lots. However, if the tie occurs when there are only two candidates
18 remaining, the tie shall be resolved as set forth in section 2602k of this title.

1 Sec. 6. 17 V.S.A. § 2731 is amended to read:

2 § 2731. CERTIFICATES OF ELECTION

3 When the canvassing board provided for in section 2592 of this title meets,
4 it shall issue its certificates of election, with respect to the presidential election,
5 to the electors nominated by the party whose candidate ~~for president has~~
6 ~~received the greatest number of votes~~ was declared the winner in accordance
7 with the provisions of section 2592a of this title.

8 Sec. 7. 17 V.S.A. § 2732 is amended to read:

9 § 2732. MEETING OF ELECTORS

10 The electors shall meet at the state house on the first Monday after the
11 second Wednesday in December next following their election, to vote for
12 president and ~~vice president~~ vice president of the United States, agreeably to
13 the laws of the United States. If there is a vacancy in the electoral college on
14 that day, occasioned by death, refusal to act, neglect to attend, failure of a
15 person elected to qualify, or for other cause, the other electors present shall at
16 once fill such vacancy viva voce and by a plurality of votes. When all the
17 electors appear or a vacancy therein is filled, the electors shall perform the
18 duties required of them by the constitution and laws of the United States. If a
19 vacancy occurs and is filled as aforesaid, the electors shall attach to the
20 certificate of their votes a statement showing how such a vacancy occurred and
21 their action thereon. The electors must vote for the candidates for president

1 and ~~vice president who received the greatest number of votes at the general~~
2 ~~election~~ vice president who were declared the winners in accordance with the
3 provisions of section 2592a of this title.

4 * * * Miscellaneous Provisions * * *

5 Sec. 8. 17 V.S.A. § 1904(a) is amended to read:

6 (a) There is hereby created the legislative apportionment board, consisting
7 of a special master designated by the chief justice of the supreme court, one
8 ~~freeman voter~~, a resident of the state of Vermont for five years immediately
9 preceding the appointment, appointed by the governor from each political party
10 which polled at least ~~twenty five~~ 25 percent of the first-choice votes cast for
11 governor at the last preceding general election, and one ~~freeman voter~~, a
12 resident of the state of Vermont for the five years immediately preceding the
13 appointment, elected by the state committee of each of those political parties, a
14 quorum of each committee being present and voting. No member of the board
15 shall serve as a member or employee of the general assembly, or of either
16 house thereof. The special master so designated shall be chairman of the
17 board, and shall call such meetings as may be necessary for the
18 accomplishment of the duties of the board hereafter set forth. The secretary of
19 state of Vermont shall be secretary of the board, but shall have no vote.

1 Sec. 9. 17 V.S.A. § 2473 is amended to read:

2 § 2473. PROVISIONS RELATIVE TO PRESIDENTIAL ELECTION

3 (a) When the president and ~~vice-president~~ vice president are to be elected,
4 the ballot shall contain the names of all candidates for these offices, arranged
5 in alphabetical order according to the surname of the presidential candidate of
6 each party. The names of the electors shall not be printed on the ballot. A vote
7 for the presidential and ~~vice-presidential~~ vice presidential nominees of a party
8 shall constitute a vote for the electors nominated by that party.

9 (b) The name and state of residence of the presidential and ~~vice-presidential~~
10 vice presidential candidate of each party shall be listed on separate lines joined
11 together by a bracket, followed by the party designations and a single square
12 for that pair of candidates. ~~In lieu of the instructions: "Vote for not more than~~
13 ~~(the number of candidates to be elected)", the following instructions shall~~
14 ~~appear: "Mark ONE square only."~~

15 (c) If a candidate for president whose name is not printed on the ballot
16 ~~receives the greatest number of votes for president~~ is declared the winner as
17 provided in section 2592a of this title, the secretary of state shall notify ~~him~~
18 that candidate of that fact, and within two weeks thereafter, the candidate shall
19 file with the secretary of state, a list of ~~freemen~~ voters equal to the number of
20 electors which the state is entitled to elect. The list shall be signed by the

1 candidate personally. The persons so named shall be electors, having the
2 duties prescribed in this title.

3 Sec. 10. SECRETARY OF STATE; VOTER EDUCATION

4 The secretary of state shall conduct a voter education campaign to
5 familiarize voters with the new ballot design, method of voting, and
6 advantages of determining a majority winner in a single election. The
7 secretary shall use public service announcements as well as seek other media
8 cooperation to the maximum extent practicable.

9 Sec. 11. EFFECTIVE DATE

10 This act shall take effect on January 1, 2002.