

1 State of Arkansas  
2 92nd General Assembly  
3 Regular Session, 2019  
4

As Engrossed: H4/8/19

# A Bill

HOUSE BILL 1960

5 By: Representative Perry  
6

## For An Act To Be Entitled

8 AN ACT TO AMEND THE LAW CONCERNING COUNTING VOTES FOR  
9 WITHDRAWN OR DECEASED CANDIDATES; TO STREAMLINE  
10 CERTAIN ELECTION PROCESSES; AND FOR OTHER PURPOSES.  
11

### Subtitle

12 TO AMEND THE LAW CONCERNING COUNTING  
13 VOTES FOR WITHDRAWN OR DECEASED  
14 CANDIDATES; AND TO STREAMLINE CERTAIN  
15 ELECTION PROCESSES.  
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20 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
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22 SECTION 1. Arkansas Code § 7-5-106(a)(2)(B)(i), concerning the number  
23 of votes required to be declared elected at an election for municipal office,  
24 is amended to read as follows:

25 (B)(i)(a) A Except as provided in subdivision  
26 (a)(2)(B)(i)(b) of this section, a candidate who receives a plurality of  
27 forty percent (40%) of the votes cast must obtain at least twenty percent  
28 (20%) more of the votes cast than the second-place candidate for the  
29 municipal office to avoid a runoff general election against the second-place  
30 candidate.

31 (b) If a candidate for nonpartisan municipal  
32 office as defined under § 7-5-315 dies or withdraws after certification of  
33 the ballot and only one (1) or two (2) candidates for the office remain, the  
34 candidate who received the most votes cast in the election shall be elected  
35 as provided under § 7-5-315.  
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1 SECTION 2. Arkansas Code § 7-5-315 is amended to read as follows:

2 7-5-315. Counting votes for unopposed and deceased candidates.

3 ~~(a)(1)(a)~~ As used in this section "nonpartisan municipal office"  
4 includes all nonpartisan municipal offices except for the office of district  
5 court judge.

6 (b)(1) The votes received by an unopposed candidate for the office of  
7 mayor, governor, or circuit clerk shall be counted and tabulated by the  
8 election officials.

9 (2) All other unopposed candidates shall be declared and  
10 certified as elected in the same manner as if the candidate had been voted  
11 upon at the election.

12 ~~(b)(1)(c)(1)~~ The votes received by ~~any person~~ a candidate for an  
13 office that is not a nonpartisan municipal office whose name appeared on the  
14 ballot and who withdrew or died after the certification of the ballot shall  
15 be counted.

16 (2)(A) If the ~~person~~ candidate received enough votes to win the  
17 election, a vacancy in election shall be declared.

18 (B)(i) If the ~~person~~ candidate received enough votes to  
19 qualify for a runoff, the ~~person's~~ candidate's name shall appear on the  
20 runoff ballot.

21 (ii) If enough votes are cast for the ~~person~~  
22 candidate to win the runoff, then a vacancy in election shall exist.

23 (d)(1) A candidate for office may withdraw from candidacy after  
24 certification of the ballot by filing a written statement that:

25 (A) Is signed by the candidate and acknowledged before an  
26 officer authorized to take acknowledgements; and

27 (B) Attests to the candidate's desire to withdraw as a  
28 candidate for the office.

29 (2) The candidate withdrawing under this section shall file the  
30 written statement under subdivision (d)(1) of this section with the:

31 (A) County clerk if the candidate filed for candidacy with  
32 the county clerk; or

33 (B) The Secretary of State if the candidate filed for  
34 candidacy with the Secretary of State.

35 (3) The county clerk or Secretary of State shall promptly  
36 provide to each county board of election commissioners with which the

1 candidate was certified for candidacy a certified copy of the written  
2 statement under this section.

3 (e)(1) The votes received by a candidate for a nonpartisan municipal  
4 office whose name appeared on the ballot and who has withdrawn or died after  
5 the certification of the ballot shall not be counted if two (2) or fewer  
6 candidates remain after the withdrawal or death.

7 (2) If only one (1) candidate for a nonpartisan municipal office  
8 remains after a candidate withdraws or dies after certification of the  
9 ballot, the remaining candidate shall be certified as elected.

10 (3) If two (2) candidates for a nonpartisan municipal office  
11 remain after a candidate withdraws or dies after certification of the ballot  
12 and:

13 (A) Only one (1) of the remaining candidates has the most  
14 votes, the remaining candidate with the most votes shall be certified as  
15 elected; or

16 (B) If more than one (1) of the remaining candidates have  
17 the most votes and the same number of votes, the candidates with the most  
18 votes and the same number of votes shall be certified to the general runoff  
19 election or special runoff election.

20 (4) If a candidate for a nonpartisan municipal office has  
21 withdrawn or died after certification of the ballot and his or her name will  
22 appear on the ballot but not be counted, notice shall be posted in each early  
23 voting location, polling place, and vote center in a manner that is  
24 reasonably visible to voters which:

25 (A) Identifies the candidate who has withdrawn or died  
26 after certification of the ballot;

27 (B) States that the candidate has withdrawn or died after  
28 certification of the ballot; and

29 (C) Advises voters that any vote entered for that  
30 candidate will not be counted.

31 (f) If a candidate for the office of mayor or city clerk withdraws or  
32 dies after certification of the ballot, the total number of votes cast in the  
33 election for mayor or city clerk shall be counted and tabulated for  
34 administrative purposes, but the dead or withdrawn candidate shall not be  
35 certified as elected or to a runoff election.

36 (g)(1) Votes not counted under this section may be tabulated or

1 released as preliminary and unofficial election results.  
2 (2) Votes not counted under this section shall not be included  
3 in the certified election results, and the results of the election shall be  
4 determined as if the votes not counted were not cast.

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/s/Perry