

**From:** Carlye Bindel <[Carlye.Bindel@house.texas.gov](mailto:Carlye.Bindel@house.texas.gov)>  
**Sent:** Monday, March 7, 2022 10:13 AM  
**To:** Joe Esparza <[JEsparza@sos.texas.gov](mailto:JEsparza@sos.texas.gov)>  
**Subject:** Constituent Issue

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Hi Joe,

We have a constituent who's come to our office with concerns about the recent Justice of the Peace election. There were three candidates. One was determined to be ineligible but it was not discovered until that candidate went to vote and was not registered to vote. This is NOT why we are contacting you.

Since his eligibility was determined too late he remained on the ballot. The constituent has come to our office because he believes there needs to be a runoff between the first and second place winners. The third place was the ineligible candidate so he is not part of the runoff. However, the elections office is saying his votes are therefore thrown out making the winner have more than 51% of the vote though that's not what actually happened. There are of course deeper relationships between different offices within the county which make this more concerning for many people.

The constituent is particularly interested in how Sec. 145.030 would be interpreted in this situation.

He wants a runoff between the first and second place winners in the election.

Can you shed a little more light on this part of the election code for me?

I realize you might need more information so please feel free to tell me what you need and I'll do my best to find it. Thank you for your assistance.

**Carlye Bindel**

*District Director*

**Representative James B. Frank**

House District 69

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**From:** Joe Esparza <JEsparza@sos.texas.gov>  
**Sent:** Tuesday, March 8, 2022 12:01 PM  
**To:** Carlye Bindel <Carlye.Bindel@house.texas.gov>  
**Subject:** RE: Constituent Issue

Hi Carlye - We have told them there has to be a runoff between the top two vote getters. 172.058 is not triggered because the ineligible candidate didn't win or qualify for the runoff. His votes are counted as part of 172.003 determination of a majority of the votes received for all candidates. The top finisher got 42% of the total vote received by all three candidates.

This is a recap form one of our elections atty's conversation with a Clay county commissioner yesterday:

"He also raised the issue of the JP who was not registered to vote in time (and which I believe several of us have discussed with the county and the chair). I told him that based on his fact pattern, it did not appear that Section 172.058 was applicable because the ineligible candidate did not receive the nomination and was not one of the two candidates with the highest votes. Since none of the candidates received a majority, it looks like they are headed for a runoff on that race."

Call if you have any questions!

V/r,

**Joe Esparza**

*Deputy Secretary of State  
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