

By: Schofield

H.B. No. 234

A BILL TO BE ENTITLED

1 AN ACT
2 Relating to separating the conducting of federal elections from
3 state and local elections.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

5 SECTION 1. PURPOSE. The purpose of this Act is to exercise
6 the legislature's constitutional authority to regulate elections
7 in this state. It is the intent of the legislature that elections
8 for state, county, and local offices be conducted concurrently with
9 federal elections to the extent possible, but that any federal law
10 regarding the conduct of elections not exceed Congress's authority
11 under Article 2 of the United States Constitution to regulate
12 elections for Congress and therefore the legislature intends that
13 such federal authority not extend to ballot measures or elections
14 for state, county, or local offices in this state.

15 SECTION 2. Section 1.002, Election Code, is amended to read
16 as follows:

17 Sec. 1.002. APPLICABILITY OF CODE. This code applies to all
18 general, special, federal, and primary elections held in this
19 state.

20 SECTION 3. Sec. 1.005, Election Code, is amended by
21 amending subsections (4), (7), (14), and (19), and adding
22 subsections (25) and (26) as follows:

23 (4) "District office" means an office of the federal or
24 state government that is not voted on statewide. If federal law

1 requires an election for a federal office to be conducted using
2 procedures that conflict with this code, any federal office that is
3 elected by district would adhere to federal procedures when in
4 conflict with state law.

5 (7) "General election for state and county officers" means
6 the general election at which the officers of the ~~federal~~, state,
7 and county governments are elected. It does not include a federal
8 election, even if such election is held concurrently.

9 (14) "Primary election" means an election held by a
10 political party under Chapter 172 to select its nominees for public
11 office, and, unless the context indicates otherwise, the term
12 includes ~~a presidential~~ primary election for federal office,
13 unless, and to the extent, federal law requires the election to be
14 conducted using procedures that conflict with this code.

15 (19) "Statewide office" means an office of the federal or
16 state government that is voted on statewide. If federal law
17 requires an election for a federal office to be conducted using
18 procedures that conflict with this code, any federal office that is
19 elected statewide would adhere to federal procedures when in
20 conflict with state law.

21 (25) "Federal election" means a primary or general election
22 for federal office or any run-off election for said office. A
23 federal election shall not include any ballot measure nor state,
24 county, or local office.

25 (26) "Federal office" means the offices of president and
26 vice-president of the United States, United States senator, or
27 United States representative.

1 SECTION 4. Chapter 41, Election Code, is amended by adding
2 Section 41.003 to read as follows:

3 Sec. 41.003. GENERAL ELECTION FOR FEDERAL OFFICES. The
4 general election for federal offices shall be held on the first
5 Tuesday after the first Monday in November in even-numbered years
6 and shall, to the extent feasible, be held concurrently with the
7 general election for state and county officers.

8 SECTION 5. Section 41.007, Election Code, is amended to
9 read as follows:

10 Sec. 41.007. PRIMARY ELECTIONS. (a) The general primary
11 election date is the first Tuesday in March in each even-numbered
12 year.

13 (b) The runoff primary election date is the fourth Tuesday
14 in May following the general primary election.

15 ~~(c) The presidential primary election is the first Tuesday~~
16 ~~in March of each presidential year.~~

17 (d) No other election, other than a primary election for
18 federal office, may be held on the date of a primary election.

19 SECTION 6. The Election Code is amended by adding Section
20 41.0075, to read as follows:

21 Sec. 41.0075. PRIMARY ELECTION FOR FEDERAL OFFICE. (a) The
22 primary election date for an election for federal office is the
23 first Tuesday in March in each even-numbered year.

24 (b) The runoff primary election date for an election for
25 federal office is the fourth Tuesday in May following the primary
26 election for federal office.

27 (c) The presidential primary election date is the first

1 Tuesday in March in each presidential election year.

2 SECTION 7. Section 42.002, Election Code, is amended to
3 read as follows:

4 Sec. 42.002. REQUIRED USE OF COUNTY PRECINCTS. (a) The
5 county election precincts are the election precincts for the
6 following elections:

7 (1) the general election for state and county
8 officers;

9 (2) a federal election;

10 ~~(23)~~ a special election ordered by the governor;

11 ~~(34)~~ a primary election;

12 ~~(45)~~ a countywide election ordered by the
13 commissioner's court, county judge, or other county authority,
14 except an election subject to Section 42.062(2); and

15 (b) Except as provided by Sections 42.008 and 42.009, county
16 election precincts may not be consolidated for an election.

17 SECTION 8. Section 101.052, Election Code, is amended by
18 adding subsection (m) to read as follows:

19 (m) A federal postcard application that is sufficient to
20 constitute a voter registration application under federal law, but
21 which does not meet the requirements of this section, does not
22 constitute registration by the applicant under Title 2 and instead
23 constitutes registration only for federal elections under Chapter
24 107.

25 SECTION 9. Section 101.055, Election Code, is amended by
26 amending subsection (a) and adding subsection (a-1), to read as
27 follows:

1 (a) The submission of a federal postcard application that
2 complies with the applicable requirements by an unregistered
3 applicant constitutes registration by the applicant:

4 (1) for the purpose of voting in the election for which
5 the ballot was requested, provided that the applicant may only vote
6 a federal ballot unless the application complies with the
7 requirements for registration under Title 2;

8 (2) under Title 2 if the application complies with the
9 requirements for registration under Title 2, unless the person
10 indicates on the application that the person is residing outside
11 the United States indefinitely.

12 (a-1) If the submission of a federal postcard application
13 under Subsection (a) is sufficient to constitute a voter
14 registration application under federal law but does not meet the
15 requirements for registration under Title 2, the application does
16 not constitute registration by the applicant under Title 2 and
17 instead constitutes registration only for federal elections under
18 Chapter 107.

19 SECTION 10. The Election Code is amended by adding Chapter
20 107, to read as follows:

21 CHAPTER 107. FEDERAL ELECTIONS

22 Sec. 107.001 FEDERAL ELECTIONS. (a) A federal election is
23 a separate election from any other election in this state,
24 including without limitation a ballot measure or an election for
25 state, county, or local office.

26 (b) An election for a ballot measure, or for a state,
27 county, or local office shall be conducted in accordance with this

1 code. Any federal law regulating the conduct of an election shall
2 apply in this state only to a federal election.

3 (c) The secretary of state shall by rule modify election
4 procedures to the limited extent necessary to allow federal
5 elections and state elections to be held separately but
6 concurrently in accordance with this chapter. The secretary in
7 doing so shall minimize disruption and voter confusion to the
8 fullest extent feasible by sharing polling locations, voting
9 stations, and other similar measures.

10 Sec. 107.002 DEFINITIONS. In this chapter:

11 (1) "Federal ballot" means a ballot that is restricted to
12 federal offices only.

13 (2) "Federal election" means a primary or general election
14 for federal office or any run-off election for said office. A
15 federal election shall not include any ballot measure nor state,
16 county, or local office.

17 (3) "Federal office" means the offices of president and
18 vice-president of the United States, United States senator, or
19 United States representative.

20 (4) "Local office" shall mean an office of any political
21 subdivision in this state as defined by Sec. 1-005(13) of this code.

22 Sec. 107.003. ELIGIBILITY. (a) A person is eligible to
23 vote in a federal election if:

24 (1) the person is qualified to vote in this state under
25 Title 2;

26 (2) the person, if not registered to vote in this state,
27 would be qualified if registered; and the person is:

1 (a) a member of the armed forces of the United States,
2 or the spouse or dependent of a member;

3 (b) a member of the merchant marine of the United
4 States, or the spouse or dependent of a member;

5 (b-1) a member of the Texas National Guard or the
6 National Guard of another state or a member of a reserve component
7 of the armed forces of the United States serving on active duty
8 under an order of the president of the United States or activated on
9 state orders, or the spouse or dependent of a member;

10 (c) domiciled in this state but temporarily living
11 outside the territorial limits of the United States and the
12 District of Columbia;

13 (3) the person is registered to vote under federal law, but
14 the person's registration does not comply with Title 2; or

15 (4) the person declines to follow procedures required by
16 this code to vote, which procedures are proscribed by federal law
17 for use in federal elections, and wishes to vote a federal ballot,
18 if the person is otherwise to qualified to vote in a federal
19 election.

20 (b) A person who is registered to vote under federal law,
21 but whose registration does not comply with the requirements for
22 registration under Title 2, is eligible to vote in a federal
23 election, but is not eligible to vote in any election for a ballot
24 measure, or state, county, or local office. Such person may only
25 vote a federal ballot.

26 (c) If a person to whom subsection (b) applies subsequently
27 submits a valid registration under Title 2, that person becomes a

1 qualified voter for any election for a ballot measure, or state,
2 county, or local office upon the expiration of 30 days after the
3 voter submitted the application to the voter registrar in the
4 county where the person resides if the application is approved
5 under Section 13.072.

6 Sec. 107.004. GENERAL CONDUCT OF VOTING. An election for
7 federal office shall be conducted and the results shall be
8 processed under the provisions of this code to extent not
9 contradicted by federal law. To the extent that federal law
10 conflicts with a provision of this code, an election for federal
11 office shall be conducted and the results shall be processed under
12 the provisions of the applicable federal law.

13 SECTION 11. If any provision of this Act or its application
14 to any person or circumstance is held invalid, the invalidity does
15 not affect other provisions or applications of this Act that can be
16 given effect without the invalid provision or application, and to
17 this end the provisions of this Act are declared to be severable.

18 SECTION 12. This Act takes effect on the 91st day after the
19 last day of the legislative session at which it is enacted.