

By: Murr

H.B. No. 3868

A BILL TO BE ENTITLED

AN ACT

relating to the presidential electors of this state.

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

SECTION 1. Section 192.002(a), Election Code, is amended to read as follows:

(a) To be eligible to serve as a presidential elector, a person must:

(1) be a qualified voter of this state;

(2) be a resident of the congressional district the person is chosen to represent, if the person is an elector designated under Section 192.003(b)(2); and

(3) ~~(2)~~ not hold the office of United States senator, United States representative, or any other federal office of profit or trust.

SECTION 2. Section 192.003, Election Code, is amended to read as follows:

Sec. 192.003. METHOD OF BECOMING ELECTOR CANDIDATE. (a) To become a presidential elector candidate, a person must be nominated as a political party's elector candidate in accordance with party rules or named as an elector candidate by an independent or write-in candidate for president.

(b) The presidential elector candidates must be designated as follows:

(1) two persons to serve as at-large electors from the

1 state; and

2 (2) one person to serve as an elector from each
3 congressional district.

4 SECTION 3. The heading to Section 192.004, Election Code,
5 is amended to read as follows:

6 Sec. 192.004. ELECTOR CANDIDATE WITHDRAWAL [~~VACANCY~~].

7 SECTION 4. Section 192.006(b), Election Code, is amended to
8 read as follows:

9 (b) The secretary of state shall arrange for the meeting
10 place, notify the electors, and call the meeting to order. [~~The~~
11 ~~secretary shall act as temporary chair of the meeting until the~~
12 ~~electors elect a chair from among themselves.~~]

13 SECTION 5. Subchapter A, Chapter 192, Election Code, is
14 amended by adding Section 192.009 to read as follows:

15 Sec. 192.009. REPLACEMENT NOMINEE. An elector shall
16 consider a replacement candidate certified under Subchapter C to be
17 the presidential or vice-presidential candidate for whom the
18 elector is the corresponding presidential elector candidate.

19 SECTION 6. The heading to Subchapter C, Chapter 192,
20 Election Code, is amended to read as follows:

21 SUBCHAPTER C. WITHDRAWAL, DEATH, AND INELIGIBILITY OF PRESIDENTIAL
22 AND VICE-PRESIDENTIAL CANDIDATES; CERTIFICATION OF ABILITY TO
23 SERVE

24 SECTION 7. Section 192.062(a), Election Code, is amended to
25 read as follows:

26 (a) The secretary of state shall certify in writing [~~for~~
27 ~~placement on the ballot~~] the name of a political party's

1 replacement nominee for president or vice-president of the United
2 States as follows [~~if~~]:

3 (1) for placement on the ballot for an [~~the~~] original
4 nominee who withdraws, dies, or is declared ineligible on or before
5 the 74th day before presidential election day if [~~and~~

6 [~~2~~] the party's state chair delivers certification of
7 the replacement nominee's name, signed by the state chair, to the
8 secretary of state not later than 5 p.m. of the 71st day before
9 presidential election day; or

10 (2) to the nominating party's presidential elector
11 candidates for an original nominee who withdraws, dies, or is
12 declared ineligible after the 74th day before presidential election
13 day if the party's state chair delivers certification of the
14 replacement nominee's name, signed by the state chair, to the
15 secretary of state not later than 2 p.m. on the Monday after the
16 second Wednesday in December of a presidential election year.

17 SECTION 8. Section 192.064(a), Election Code, is amended to
18 read as follows:

19 (a) The secretary of state shall certify in writing [~~for~~
20 ~~placement on the ballot~~] the name of a replacement
21 vice-presidential running mate for an independent candidate for
22 president of the United States as follows [~~if~~]:

23 (1) for placement on the ballot for an [~~the~~] original
24 running mate who withdraws, dies, or is declared ineligible on or
25 before the 74th day before presidential election day if [~~and~~

26 [~~2~~] the independent presidential candidate delivers
27 certification of the replacement running mate's name, signed by the

1 presidential candidate, to the secretary of state not later than 5
2 p.m. of the 71st day before presidential election day; or
3 (2) to the presidential candidate's corresponding
4 presidential elector candidates for an original running mate who
5 withdraws, dies, or is declared ineligible after the 74th day
6 before presidential election day if the independent presidential
7 candidate delivers certification of the replacement running mate's
8 name, signed by the presidential candidate, to the secretary of
9 state not later than 2 p.m. on the Monday after the second Wednesday
10 in December of a presidential election year.

11 SECTION 9. Subchapter C, Chapter 192, Election Code, is
12 amended by adding Section 192.065 to read as follows:

13 Sec. 192.065. CERTIFICATION OF ABILITY TO SERVE BY WINNING
14 CANDIDATE; AFFIRMATION OR DENIAL BY ELECTORS. (a) The candidates
15 for president and vice president who received the most votes in this
16 state in the general presidential election, or a legal
17 representative of such a candidate, shall certify not later than
18 the seventh day before the meeting of electors that the candidate is
19 willing and able to serve in the position for which the candidate
20 was elected.

21 (b) At the meeting of electors, the electors shall first
22 vote to affirm or deny the certification made under Subsection (a).
23 If a majority of electors vote to deny the certification that the
24 candidate is willing and able to serve, Subchapter D does not apply
25 to that meeting of electors with respect to the candidate for which
26 the certification was denied.

27 (c) If before the meeting of electors a candidate fails to

1 certify that the candidate is willing and able to serve as provided
2 by Subsection (a), the electors shall first vote on the issue of
3 whether each candidate is willing and able to serve in the position
4 for which the candidate was elected. If a majority of electors vote
5 that the candidate is not willing or able to serve in the position
6 for which the candidate was elected, Subchapter D does not apply to
7 that meeting of electors with respect to that candidate.

8 SECTION 10. Chapter 192, Election Code, is amended by
9 adding Subchapter D to read as follows:

10 SUBCHAPTER D. REQUIRED ACTION BY PRESIDENTIAL ELECTORS;

11 REPLACEMENT OF ELECTOR

12 Sec. 192.101. DESIGNATION OF STATE'S ELECTORS. Each
13 elector position in this state must be nominated in accordance with
14 political party rules or by an independent or write-in presidential
15 candidate, as applicable. Except as otherwise provided in Sections
16 192.103 and 192.104, this state's electors are the winning elector
17 nominees under the laws of this state.

18 Sec. 192.102. OATH. (a) Not later than the seventh day
19 before the meeting of electors, each elector nominee and alternate
20 elector nominee of a political party shall execute the following
21 oath: "If selected for the position of elector, I swear to serve and
22 to mark my ballots for president and vice president for the nominees
23 for those offices of the party that nominated me."

24 (b) Not later than the seventh day before the meeting of
25 electors, each elector nominee and alternate elector nominee of an
26 independent presidential candidate shall execute the following
27 oath: "If selected for the position of elector as a nominee of an

1 independent presidential candidate, I swear to serve and to mark my
2 ballots for that candidate and for that candidate's
3 vice-presidential running mate."

4 (c) The executed oaths must accompany the submission of the
5 corresponding names to the secretary of state.

6 Sec. 192.103. PRESIDING OFFICER; ELECTOR VACANCY. (a) The
7 secretary of state shall preside at the meeting of electors
8 described in Section 192.104.

9 (b) The position of an elector who is not present to vote or
10 who has failed to execute the oath under Section 192.102 is vacant.
11 The secretary of state shall fill a vacancy with a substitute
12 elector nominated in accordance with political party rules or named
13 by an independent or write-in candidate for president, as
14 applicable.

15 (c) To qualify as a substitute elector under Subsection (b),
16 an individual who has not executed the oath required under Section
17 192.102 shall execute the following oath: "I swear to serve and to
18 mark my ballots for president and vice president consistent with
19 the oath of the individual to whose elector position I have
20 succeeded."

21 Sec. 192.104. ELECTOR VOTING. (a) At the time designated
22 for elector voting and after all vacant positions have been filled
23 under Section 192.103, the secretary of state shall provide each
24 elector with a presidential and a vice-presidential ballot. The
25 elector shall mark the elector's presidential and
26 vice-presidential ballots with the elector's votes for the offices
27 of president and vice president, respectively, along with the

1 elector's signature and the elector's legibly printed name.

2 (b) Except as otherwise provided by law of this state other
3 than this subchapter, each elector shall present both completed
4 ballots to the secretary of state. The secretary of state shall
5 examine the ballots, read each vote publicly, and accept as cast all
6 ballots of electors whose votes are consistent with their oaths
7 executed under Section 192.102 or 192.103(c). Except as otherwise
8 provided by law, the secretary of state may not accept and may not
9 count either an elector's presidential or vice-presidential ballot
10 if the elector has not marked both ballots or has marked a ballot in
11 violation of the elector's oath.

12 (c) An elector who refuses to present a ballot, presents an
13 unmarked ballot, or presents a ballot marked in violation of the
14 elector's oath executed under Section 192.102 or 192.103(c) vacates
15 the office of elector, creating a vacant position to be filled under
16 Section 192.103.

17 (d) The secretary of state shall distribute ballots to and
18 collect ballots from a substitute elector and repeat the process
19 under this section of examining ballots, publicly reading the
20 votes, declaring and filling vacant positions as required, and
21 recording appropriately completed ballots from the substituted
22 electors, until all of this state's electoral votes have been cast
23 and recorded.

24 SECTION 11. The following provisions of the Election Code
25 are repealed:

26 (1) Sections 192.004(b), (c), and (d);

27 (2) Section 192.006(c); and

1 (3) Section 192.007.

2 SECTION 12. This Act takes effect immediately if it
3 receives a vote of two-thirds of all the members elected to each
4 house, as provided by Section 39, Article III, Texas Constitution.
5 If this Act does not receive the vote necessary for immediate
6 effect, this Act takes effect September 1, 2021.