

By: Jetton

H.B. No. 3999

A BILL TO BE ENTITLED

AN ACT

relating to the powers and duties of a presiding judge and alternate presiding judge in an election.

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

SECTION 1. The heading to Section 32.031, Election Code, is amended to read as follows:

Sec. 32.031. PRESIDING JUDGE AND ALTERNATE PRESIDING JUDGE TO APPOINT CLERKS.

SECTION 2. Section 32.031(a), Election Code, is amended to read as follows:

(a) The presiding judge and alternate presiding judge for each election precinct shall each appoint the election clerks to assist the presiding judge and alternate presiding judge in the conduct of an election at the polling place served by the presiding judge and alternate presiding judge.

SECTION 3. Sections 32.033(a), (b), and (c), Election Code, are amended to read as follows:

(a) The authority that appoints the election judges shall prescribe the maximum number of clerks that each presiding judge and alternate presiding judge may appoint for each election. The authority may prescribe different maximums for different types of elections.

(b) Except as provided by Subsection (c), the presiding judge and alternate presiding judge shall each appoint at least one

1 clerk [~~two clerks~~] for each precinct in each election and may
2 appoint as many additional clerks, within the prescribed limit, as
3 are necessary for the proper conduct of the election.

4 (c) In each election ordered by the governor or a county
5 authority in which the regular county election precincts are
6 required to be used, the presiding judge and alternate presiding
7 judge shall each appoint clerks for each precinct in the number,
8 within the prescribed limit, the presiding judge and alternate
9 presiding judge consider [~~considers~~] necessary for the proper
10 conduct of the election.

11 SECTION 4. Sections 32.034(b), (c), and (d), Election Code,
12 are amended to read as follows:

13 (b) The county chair of a political party whose candidate
14 for governor received the highest or second highest number of votes
15 in the county in the most recent gubernatorial general election
16 may, not later than the 25th day before a general election or the
17 10th day before a special election to which Subsection (a) applies,
18 submit to a presiding judge and an alternate presiding judge a list
19 containing the names of at least two persons who are eligible for
20 appointment as a clerk. If a timely list is submitted, the
21 presiding judge and alternate presiding judge shall each appoint at
22 least one clerk from the list, except as provided by Subsection (c).
23 The presiding judge and alternate presiding judge shall each
24 appoint the same number of clerks to the extent possible given the
25 total number of clerks to be appointed.

26 (c) If only one additional clerk is to be appointed for an
27 election [~~in which the alternate presiding judge will serve as a~~

1 ~~clerk~~], the clerk shall be appointed from the list of a political
2 party with which neither the presiding judge nor the alternate
3 judge is affiliated or aligned, if such a list is submitted. If two
4 such lists are submitted, the presiding judge shall decide from
5 which list the appointment will be made. If such a list is not
6 submitted, the presiding judge is not required to make an
7 appointment from any list.

8 (d) The presiding judge and alternate presiding judge shall
9 make an appointment under this section not later than the fifth day
10 after the date the judges receive [~~judge receives~~] the list and
11 shall deliver written notification of the appointment to the
12 appropriate county chair.

13 SECTION 5. Subchapter **D**, Chapter **32**, Election Code, is
14 amended by adding Section 32.0715 to read as follows:

15 Sec. 32.0715. ALTERNATE PRESIDING JUDGE. (a) An alternate
16 presiding judge shall have access to the voting area at all times
17 the polling place is open for voting and a presiding judge may not
18 assign any duty to an alternate presiding judge that prevents
19 continuous access to that area.

20 (b) The alternate presiding judge shall assume the
21 responsibilities of the presiding judge if the presiding judge is
22 not present at the polling place.

23 SECTION 6. Section **573.061**, Government Code, is amended to
24 read as follows:

25 Sec. 573.061. GENERAL EXCEPTIONS. Section **573.041** does not
26 apply to:

27 (1) an appointment to the office of a notary public or

1 to the confirmation of that appointment;

2 (2) an appointment of a page, secretary, attendant, or
3 other employee by the legislature for attendance on any member of
4 the legislature who, because of physical infirmities, is required
5 to have a personal attendant;

6 (3) a confirmation of the appointment of an appointee
7 appointed to a first term on a date when no individual related to
8 the appointee within a degree described by Section 573.002 was a
9 member of or a candidate for the legislature, or confirmation on
10 reappointment of the appointee to any subsequent consecutive term;

11 (4) an appointment or employment of a bus driver by a
12 school district if:

13 (A) the district is located wholly in a county
14 with a population of less than 35,000; or

15 (B) the district is located in more than one
16 county and the county in which the largest part of the district is
17 located has a population of less than 35,000;

18 (5) an appointment or employment of a personal
19 attendant by an officer of the state or a political subdivision of
20 the state for attendance on the officer who, because of physical
21 infirmities, is required to have a personal attendant;

22 (6) an appointment or employment of a substitute
23 teacher by a school district;

24 (7) an appointment or employment of a person by a
25 municipality that has a population of less than 200; or

26 (8) an appointment of an election clerk under Section
27 32.031, Election Code [~~who is not related in the first degree by~~

1 ~~consanguinity or affinity to an elected official of the authority~~
2 ~~that appoints the election judges for that election].~~

3 SECTION 7. Section [32.032](#), Election Code, is repealed.

4 SECTION 8. This Act takes effect September 1, 2021.