

By: Murr

H.B. No. 87

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 192.004, Election Code, is amended to read as follows:

Sec. 192.004. ELECTOR CANDIDATE WITHDRAWAL [VACANCY].

~~[(a)]~~ An elector candidate may withdraw from the presidential election before presidential election day, by delivering written notice of the withdrawal to:

(1) the secretary of state; and

(2) the state chair of the party that nominated the elector candidate or to the independent or write-in candidate for president who named the elector candidate.

~~[(b) If an elector candidate withdraws, dies, or is declared ineligible before presidential election day, a replacement elector candidate may be named by the party that nominated the elector candidate or by the independent or write-in candidate for president who named the elector candidate.]~~

~~[(c) An independent or write-in candidate for president naming a replacement elector candidate must file with the secretary of state, before presidential election day, the name and residence address of the replacement candidate and a written statement, signed by the replacement candidate, that the person consents to be a candidate.]~~

1 ~~[(d) If a political party's rules do not provide the manner~~
2 ~~of choosing a replacement elector candidate, the party's state~~
3 ~~executive committee may choose the replacement candidate. The~~
4 ~~state chair of a political party naming a replacement elector~~
5 ~~candidate must file with the secretary of state, before~~
6 ~~presidential election day, the name and residence address of the~~
7 ~~replacement candidate.]~~

8 SECTION 2. Section 192.006(b), Election Code, is amended to
9 read as follows:

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

14 SECTION 3. Subchapter A, Chapter 192, Election Code, is
15 amended by adding Section 192.009 to read as follows:

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

20 SECTION 4. The heading to Subchapter C, Chapter 192,
21 Election Code, is amended to read as follows:

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

25 SECTION 5. Section 192.062(a), Election Code, is amended to
26 read as follows:

27 (a) The secretary of state shall certify in writing ~~[for~~

1 ~~placement on the ballot]~~ the name of a political party's
2 replacement nominee for president or vice-president of the United
3 States as follows [~~if~~]:

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

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

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

18 SECTION 6. Section 192.064(a), Election Code, is amended to
19 read as follows:

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

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

27 [~~2~~] the independent presidential candidate delivers

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

12 SECTION 7. Subchapter C, Chapter 192, Election Code, is
13 amended by adding Section 192.065 to read as follows:

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

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

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

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

11 SUBCHAPTER D. REQUIRED ACTION BY PRESIDENTIAL ELECTORS;

12 REPLACEMENT OF ELECTOR

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

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

25 (b) Not later than the seventh day before the meeting of
26 electors, each elector nominee and alternate elector nominee of an
27 independent presidential candidate shall execute the following

1 oath: "If selected for the position of elector as a nominee of an
2 independent presidential candidate, I swear to serve and to mark my
3 ballots for that candidate and for that candidate's
4 vice-presidential running mate."

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

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

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

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

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

1 of president and vice president, respectively, along with the
2 elector's signature and the elector's legibly printed name.

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

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

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

25 SECTION 9. The following provisions of the Election Code
26 are repealed:

27 (1) Section 192.006(c); and

1 (2) Section 192.007.

2 SECTION 10. 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, 2023.