

1-1 By: Murr, et al. (Senate Sponsor - Hughes) H.B. No. 87
 1-2 (In the Senate - Received from the House April 26, 2023;
 1-3 May 2, 2023, read first time and referred to Committee on State
 1-4 Affairs; May 10, 2023, reported favorably by the following vote:
 1-5 Yeas 11, Nays 0; May 10, 2023, sent to printer.)

1-6 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-7				
1-8	X			
1-9	X			
1-10	X			
1-11	X			
1-12	X			
1-13	X			
1-14	X			
1-15	X			
1-16	X			
1-17	X			
1-18	X			

1-19 A BILL TO BE ENTITLED
 1-20 AN ACT

1-21 relating to the presidential electors of this state.
 1-22 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:
 1-23 SECTION 1. Section 192.004, Election Code, is amended to
 1-24 read as follows:
 1-25 Sec. 192.004. ELECTOR CANDIDATE WITHDRAWAL [VACANCY].
 1-26 [~~(a)~~] An elector candidate may withdraw from the presidential
 1-27 election before presidential election day, by delivering written
 1-28 notice of the withdrawal to:
 1-29 (1) the secretary of state; and
 1-30 (2) the state chair of the party that nominated the
 1-31 elector candidate or to the independent or write-in candidate for
 1-32 president who named the elector candidate.
 1-33 [~~(b)~~] ~~If an elector candidate withdraws, dies, or is declared~~
 1-34 ~~ineligible before presidential election day, a replacement elector~~
 1-35 ~~candidate may be named by the party that nominated the elector~~
 1-36 ~~candidate or by the independent or write-in candidate for president~~
 1-37 ~~who named the elector candidate.~~
 1-38 [~~(c)~~] ~~An independent or write-in candidate for president~~
 1-39 ~~naming a replacement elector candidate must file with the secretary~~
 1-40 ~~of state, before presidential election day, the name and residence~~
 1-41 ~~address of the replacement candidate and a written statement,~~
 1-42 ~~signed by the replacement candidate, that the person consents to be~~
 1-43 ~~a candidate.~~
 1-44 [~~(d)~~] ~~If a political party's rules do not provide the manner~~
 1-45 ~~of choosing a replacement elector candidate, the party's state~~
 1-46 ~~executive committee may choose the replacement candidate. The~~
 1-47 ~~state chair of a political party naming a replacement elector~~
 1-48 ~~candidate must file with the secretary of state, before~~
 1-49 ~~presidential election day, the name and residence address of the~~
 1-50 ~~replacement candidate.]~~
 1-51 SECTION 2. Section 192.006(b), Election Code, is amended to
 1-52 read as follows:
 1-53 (b) The secretary of state shall arrange for the meeting
 1-54 place, notify the electors, and call the meeting to order. [~~The~~
 1-55 ~~secretary shall act as temporary chair of the meeting until the~~
 1-56 ~~electors elect a chair from among themselves.]~~
 1-57 SECTION 3. Subchapter A, Chapter 192, Election Code, is
 1-58 amended by adding Section 192.009 to read as follows:
 1-59 Sec. 192.009. REPLACEMENT NOMINEE. An elector shall
 1-60 consider a replacement candidate certified under Subchapter C to be
 1-61 the presidential or vice-presidential candidate for whom the

2-1 elector is the corresponding presidential elector candidate.

2-2 SECTION 4. The heading to Subchapter C, Chapter 192,
2-3 Election Code, is amended to read as follows:

2-4 SUBCHAPTER C. WITHDRAWAL, DEATH, AND INELIGIBILITY OF PRESIDENTIAL
2-5 AND VICE-PRESIDENTIAL CANDIDATES; CERTIFICATION OF INABILITY TO
2-6 SERVE

2-7 SECTION 5. Section 192.062(a), Election Code, is amended to
2-8 read as follows:

2-9 (a) The secretary of state shall certify in writing [~~for~~
2-10 ~~placement on the ballot~~] the name of a political party's
2-11 replacement nominee for president or vice-president of the United
2-12 States as follows [if]:

2-13 (1) for placement on the ballot for an [the] original
2-14 nominee who withdraws, dies, or is declared ineligible on or before
2-15 the 74th day before presidential election day if [~~and~~

2-16 [~~2~~] the party's state chair delivers certification of
2-17 the replacement nominee's name, signed by the state chair, to the
2-18 secretary of state not later than 5 p.m. of the 71st day before
2-19 presidential election day; or

2-20 (2) to the nominating party's presidential elector
2-21 candidates for an original nominee who withdraws, dies, or is
2-22 declared ineligible after the 74th day before presidential election
2-23 day if the party's state chair delivers certification of the
2-24 replacement nominee's name, signed by the state chair, to the
2-25 secretary of state not later than 2 p.m. on the Monday after the
2-26 second Wednesday in December of a presidential election year.

2-27 SECTION 6. Section 192.064(a), Election Code, is amended to
2-28 read as follows:

2-29 (a) The secretary of state shall certify in writing [~~for~~
2-30 ~~placement on the ballot~~] the name of a replacement
2-31 vice-presidential running mate for an independent candidate for
2-32 president of the United States as follows [if]:

2-33 (1) for placement on the ballot for an [the] original
2-34 running mate who withdraws, dies, or is declared ineligible on or
2-35 before the 74th day before presidential election day if [~~and~~

2-36 [~~2~~] the independent presidential candidate delivers
2-37 certification of the replacement running mate's name, signed by the
2-38 presidential candidate, to the secretary of state not later than 5
2-39 p.m. of the 71st day before presidential election day; or

2-40 (2) to the presidential candidate's corresponding
2-41 presidential elector candidates for an original running mate who
2-42 withdraws, dies, or is declared ineligible after the 74th day
2-43 before presidential election day if the independent presidential
2-44 candidate delivers certification of the replacement running mate's
2-45 name, signed by the presidential candidate, to the secretary of
2-46 state not later than 2 p.m. on the Monday after the second Wednesday
2-47 in December of a presidential election year.

2-48 SECTION 7. Subchapter C, Chapter 192, Election Code, is
2-49 amended by adding Section 192.065 to read as follows:

2-50 Sec. 192.065. CERTIFICATION OF WINNING CANDIDATE'S
2-51 INABILITY TO SERVE; AFFIRMATION OR DENIAL BY ELECTORS. (a) The
2-52 secretary of state shall certify on the seventh day before the
2-53 meeting of electors that a candidate for president or vice
2-54 president who received the most votes in this state in the general
2-55 presidential election is willing and able to serve in the position
2-56 for which the candidate was elected, unless the secretary of state
2-57 has received a written certification from one of the following
2-58 individuals, in order of precedence, that the candidate is unable
2-59 or unwilling to serve:

2-60 (1) the candidate;

2-61 (2) the executive director of the candidate's
2-62 campaign; or

2-63 (3) the candidate's spouse or, if the candidate does
2-64 not have a surviving spouse, the person to whom the candidate's
2-65 estate would descend under Section 201.001, Estates Code.

2-66 (b) Upon receipt of a certification under Subsection (a),
2-67 the secretary of state shall notify the party of the candidate who
2-68 submitted the certification and post the certification on the
2-69 secretary of state's Internet website.

3-1 (c) The secretary of state may promulgate a form for a
 3-2 certification under this section of inability or unwillingness to
 3-3 serve.

3-4 (d) If before the meeting of electors the secretary of state
 3-5 receives a certification under Subsection (a) that a candidate is
 3-6 unwilling or unable to serve, the electors shall first vote on the
 3-7 issue of whether that candidate is willing and able to serve in the
 3-8 position for which the candidate was elected. If a majority of
 3-9 electors vote that the candidate is not willing or able to serve in
 3-10 the position for which the candidate was elected, Sections 192.102,
 3-11 192.103(b), 192.103(d), and 192.104(d) and (e) do not apply to that
 3-12 meeting of electors with respect to that candidate.

3-13 SECTION 8. Chapter 192, Election Code, is amended by adding
 3-14 Subchapter D to read as follows:

3-15 SUBCHAPTER D. REQUIRED ACTION BY PRESIDENTIAL ELECTORS;
 3-16 REPLACEMENT OF ELECTOR

3-17 Sec. 192.101. DESIGNATION OF STATE'S ELECTORS. Each
 3-18 elector position in this state must be nominated in accordance with
 3-19 political party rules or by an independent or write-in presidential
 3-20 candidate, as applicable. Except as otherwise provided in Sections
 3-21 192.006, 192.103, and 192.104, this state's electors are the
 3-22 winning elector nominees under the laws of this state.

3-23 Sec. 192.102. OATH. (a) Not later than the seventh day
 3-24 before the meeting of electors, each elector nominee and alternate
 3-25 elector nominee of a political party shall execute the following
 3-26 oath: "If selected for the position of elector, I swear to serve and
 3-27 to mark my ballots for president and vice president for the nominees
 3-28 for those offices of the party that nominated me."

3-29 (b) Not later than the sixth day before the meeting of
 3-30 electors, each elector nominee and alternate elector nominee of an
 3-31 independent presidential candidate shall execute the following
 3-32 oath: "If selected for the position of elector as a nominee of an
 3-33 independent presidential candidate, I swear to serve and to mark my
 3-34 ballots for that candidate and for that candidate's
 3-35 vice-presidential running mate."

3-36 (c) The executed oaths must accompany the submission of the
 3-37 corresponding names to the secretary of state.

3-38 Sec. 192.103. PRESIDING OFFICER; ELECTOR VACANCY. (a) The
 3-39 secretary of state shall preside at the meeting of electors
 3-40 described in Section 192.104.

3-41 (b) The position of an elector is vacant if the elector has
 3-42 failed to execute the oath under Section 192.102.

3-43 (c) The secretary of state shall fill a vacancy with a
 3-44 substitute elector nominated in accordance with political party
 3-45 rules or named by an independent or write-in candidate for
 3-46 president, as applicable. A substitute elector who is filling the
 3-47 position of an elector is considered an elector for purposes of this
 3-48 chapter. If a person's position as elector is determined to be
 3-49 vacant, the person may not serve as a substitute elector with
 3-50 respect to that meeting of electors.

3-51 (d) To qualify as a substitute elector under Subsection (c),
 3-52 an individual who has not executed the oath required under Section
 3-53 192.102 shall execute the following oath: "I swear to serve and to
 3-54 mark my ballots for president and vice president consistent with
 3-55 the oath of the individual to whose elector position I have
 3-56 succeeded."

3-57 Sec. 192.104. ELECTOR VOTING. (a) At the time designated
 3-58 for elector voting and after all vacant positions have been filled,
 3-59 the secretary of state shall provide each elector with a
 3-60 presidential and a vice-presidential ballot. The elector shall mark
 3-61 the elector's presidential and vice-presidential ballots with the
 3-62 elector's votes for the offices of president and vice president,
 3-63 respectively, along with the elector's signature and the elector's
 3-64 legibly printed name.

3-65 (b) Except as otherwise provided by law of this state other
 3-66 than this subchapter, each elector shall present both completed
 3-67 ballots to the secretary of state. The secretary of state shall
 3-68 examine the ballots and read each vote publicly.

3-69 (c) The secretary of state shall accept as cast all ballots

4-1 of electors whose votes are consistent with their oaths executed
4-2 under Section 192.102 or 192.103(d). Except as otherwise provided
4-3 by law, the secretary of state may not accept and may not count
4-4 either an elector's presidential or vice-presidential ballot if the
4-5 elector has not marked both ballots or has marked a ballot in
4-6 violation of the elector's oath.

4-7 (d) An elector who refuses to present a ballot, presents an
4-8 unmarked ballot, or presents a ballot marked in violation of the
4-9 elector's oath executed under Section 192.102 or 192.103(d) vacates
4-10 the office of elector, creating a vacant position to be filled under
4-11 Section 192.103.

4-12 (e) The secretary of state shall distribute ballots to and
4-13 collect ballots from each elector and repeat the process under this
4-14 section of examining ballots, publicly reading the votes, declaring
4-15 and filling vacant positions as required, and recording
4-16 appropriately completed ballots from the substituted electors,
4-17 until all of this state's electoral votes have been cast and
4-18 recorded.

4-19 SECTION 9. Section 192.007, Election Code, is repealed.

4-20 SECTION 10. This Act takes effect immediately if it
4-21 receives a vote of two-thirds of all the members elected to each
4-22 house, as provided by Section 39, Article III, Texas Constitution.
4-23 If this Act does not receive the vote necessary for immediate
4-24 effect, this Act takes effect September 1, 2023.

4-25 * * * * *