

By: Hall

S.B. No. 2464

A BILL TO BE ENTITLED

AN ACT

relating to elections.

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

SECTION 1. Subchapter A, Chapter 43, Election Code, is amended by adding Section 43.008 to read as follows:

Sec. 43.008. POLLING PLACES DURING ELECTION PERIOD. (a) Notwithstanding any other law, the county clerk or commissioners court, as applicable, shall determine the number of polling places needed during an election period and cause that number of polling places to be open during the election period.

SECTION 2. Section 51.005(a), Election Code, is amended to read as follows:

(a) The authority responsible for procuring the election supplies for an election shall provide for each election precinct a number of secure paper ballots equal to at least the number ~~[percentage]~~ of qualified voters ~~[who voted]~~ in that precinct ~~[in the most recent corresponding election]~~ plus 10 ~~[25]~~ percent of that number ~~[, except that the number of ballots provided may not exceed the total number of registered voters in the precinct].~~

SECTION 3. Section 61.002(c), Election Code, is amended to read as follows:

(c) Immediately after closing the polls for voting ~~[on election day]~~, the presiding election judge or alternate election judge shall print the tape to show the number of votes cast for each

1 candidate or ballot measure for each voting machine.

2 SECTION 4. Section 62.008(b), Election Code, is amended to  
3 read as follows:

4 (b) The judge shall sign each ballot [~~or an election~~  
5 ~~officer shall stamp a facsimile of the judge's signature on each~~  
6 ~~ballot~~].

7 (c) The signing of a ballots need not be completed  
8 before the polls open shall occur for each voter when a voter is  
9 handed a ballot[,-]. [~~but a~~] An unsigned ballot may not be made  
10 available for selection by the voters.

11 SECTION 5. Section 63.002(d), Election Code, is amended to  
12 read as follows:

13 (d) A [The] signature roster [may be] in the form of an  
14 electronic device may not be used in an election [approved by the  
15 secretary of state that is capable of capturing a voter's signature  
16 next to the voter's name on the device. The secretary of state shall  
17 adopt rules governing the processing of electronic signatures  
18 captured under this subsection].

19 SECTION 6. Section 63.003, Election Code, is amended by  
20 amending (d) and adding subsection (e) to read as follows:

21 (d) A [The] poll list [may be] in the form of an electronic  
22 device may not be used in an election [approved by the secretary of  
23 state. The secretary of state shall adopt rules governing the use of  
24 electronic poll list].

25 (e) A paper poll list for each precinct shall be printed 30  
26 days prior to the start of voting by personal appearance. The  
27 secretary of state shall prescribe special instructions for

1 maintaining a secure chain-of-custody of the poll list.

2 SECTION 7. Section 63.004(e), Election Code, is amended to  
3 read as follows:

4 (e) A combination form ~~[may be]~~ in the form of an electronic  
5 device may not be used in an election ~~[approved by the secretary of~~  
6 ~~state. The secretary of state shall adopt rules governing the~~  
7 ~~minimum requirements and approval of an electronic device used for~~  
8 ~~any form used in connection with the acceptance of voters at a~~  
9 ~~polling place].~~

10 SECTION 8. Section 64.009, Election Code, is amended by  
11 amending Subsection (d) and adding Subsection (d-1) to read as  
12 follows:

13 (d) On the voter's request for assistance in marking the  
14 ballot, two election officers aligned with different political  
15 parties shall provide assistance in marking the ballot in the  
16 manner prescribed by Section 64.032 ~~[a person accompanying the~~  
17 ~~voter shall be permitted to select the voter's ballot and deposit~~  
18 ~~the ballot in the ballot box].~~

19 (d-1) Any non-disabled person accompanying the voter shall  
20 exit the vehicle and remain outside of the vehicle unless the person  
21 is selected by the voter under Section 64.032(c).

22 SECTION 9. Chapter 65, Election Code, is amended by adding  
23 Section 65.101 to read as follows:

24 Section 65.101. PARTIAL HAND COUNT REQUIRED. (a)  
25 Notwithstanding any other provision of this code, immediately after  
26 closing the polls for voting, each presiding precinct judge shall  
27 conduct by hand a partial count of voted ballots for a selected

1 number of races according to the counting procedures set forth in  
2 this Section.

3 (b) The secretary of state shall prescribe a process for  
4 conducting a partial count that must include a selection of at least  
5 two ballot races and 10 percent of the precincts in the county.

6 (c) The secretary of state shall provide training for  
7 election officers to carry out this Section.

8 SECTION 10. Section 66.052, Election Code, is amended to  
9 read as follows:

10 Sec. 66.052. DELIVERY BY ELECTION CLERK; CHAIN OF CUSTODY.

11 (a) A delivery of election records or supplies that is to be  
12 performed by the presiding judge may be performed by an election  
13 clerk designated by the presiding judge.

14 (b) If the presiding judge of a polling place designates a  
15 clerk to deliver election supplies, the presiding judge shall  
16 attest to the designation, and the clerk shall attest to the clerk's  
17 acceptance of the responsibility. The secretary of state shall  
18 create and promulgate a form to facilitate compliance with this  
19 section.

20 SECTION 11. Section 66.058(f), Election Code, is amended to  
21 read as follows:

22 (f) Except for unused ballots, the [The] records in ballot  
23 box no. 4 may be preserved in that box or by any other method chosen  
24 by the custodian. If the records are removed from the box, they may  
25 not be commingled with any other election records kept by the  
26 custodian. Immediately after closing the polls for voting, the  
27 custodian shall spoil any unused ballots in ballot box no. 4 and

1 document the number of spoiled, unused ballots on the  
2 reconciliation form.

3 SECTION 12. Section 67.004(d), Election Code, is amended to  
4 read as follows:

5 (d) The canvassing authority shall [~~may~~] compare the  
6 precinct returns with the corresponding tally list. If a  
7 discrepancy is discovered between the vote totals shown on the  
8 returns and those shown on the tally list for a precinct, the  
9 presiding judge of the precinct shall examine the returns and tally  
10 list and make the necessary corrections on the returns. The county  
11 canvassing authority shall verify that the precinct returns are  
12 accurately and truly reflected in the county returns.

13 SECTION 13. Section 67.007(d) is amended to read as  
14 follows: Not later than 24 hours after completion of the local  
15 canvass, the county clerk shall deliver to the secretary of state,  
16 in the manner directed by the secretary, the county returns. The  
17 secretary of state shall post the preliminary county returns on a  
18 precinct-by-precinct basis on the secretary of state's Internet  
19 website. Not later than 24 hours after the secretary of state posts  
20 the county returns, the county clerk shall verify that the county  
21 returns are accurately and truly reflected on the secretary of  
22 state's website.

23 SECTION 14. Section 67.013, Election Code, is amended by  
24 adding Subsection (b-1) to read as follows:

25 (b-1) The secretary of state shall compare the county  
26 returns with the corresponding local election register. If a  
27 discrepancy is discovered between the vote totals shown on the

1 returns and those shown in the register, the secretary of state  
2 shall examine the returns and register and make the necessary  
3 corrections on the returns.

4 SECTION 15. Subchapter A, Chapter 68, Election Code, is  
5 amended by adding Section 68.0061 to read as follows:

6 Sec. 68.0061. PAPER COPY OF REPORTS. The secretary of state  
7 shall create and maintain a paper copy of any of the reports  
8 prepared under this subchapter to be stored with the other election  
9 records for the preservation period.

10 SECTION 16. Section 68.007(b), Election Code, is amended to  
11 read as follows:

12 (b) Not later than 48 hours after receiving the vote totals  
13 of each county, the [The] secretary of state shall [may] post for  
14 public inspection on the secretary of state's Internet website any  
15 of the reports prepared under this subchapter. Where applicable,  
16 such reports shall be posted on a precinct-by-precinct basis.

17 SECTION 17. Section 68.008, Election Code, is amended to  
18 read as follows:

19 Sec. 68.008. BACKUP SYSTEM. The secretary of state shall  
20 provide a secure backup system for the tabulation of the results  
21 that satisfies the requirements of the rules adopted by the  
22 secretary of state under Section 279.002.

23 SECTION 18. Section 68.034, Election Code, is amended by  
24 amending Subsection (a) and adding Subsection (a-1) to read as  
25 follows:

26 (a) The county clerk shall contact [~~transmit periodically~~],  
27 by telephone or other secure electronic means, [~~to~~] the secretary

1 of state to provide the results for the races being tabulated by the  
2 secretary. The results shall be transmitted continuously until  
3 complete.

4 (a-1) The precinct totals for each contested race or measure  
5 shall be posted on the county clerk's Internet website. The  
6 secretary of state shall adopt rules and implement procedures  
7 necessary to investigate any discrepancy in the precinct totals  
8 reported on a county clerk's Internet website and the secretary of  
9 state's Internet website.

10 SECTION 19. Subchapter C, Chapter 68, Election Code, is  
11 amended by adding Section 68.0551 to read as follows:

12 Sec. 68.0551. POSTING OF REPORT. Not later than 48 hours  
13 after receiving a written report prepared under this subchapter,  
14 the secretary of state shall post the report on the secretary of  
15 state's Internet website.

16 SECTION 20. Section 125.003, Election Code, is amended to  
17 read as follows:

18 Sec. 125.003. DELIVERY OF EQUIPMENT TO POLLING PLACES. (a)  
19 The secretary of state shall prescribe procedures governing  
20 delivery of voting system equipment to polling places to protect  
21 the equipment from tampering and damage.

22 (b) The procedures prescribed by the secretary of state  
23 under this section may allow voting system equipment to be  
24 delivered on a day before early voting begins and for additional  
25 voting system equipment to be delivered after early voting begins.  
26 The procedures may not allow for voting system equipment or ballot  
27 bins or boxes to be collected until all voting is completed and the

1 results tapes are printed.

2 SECTION 21. Subchapter A, Chapter 125, Election Code, is  
3 amended by adding Section 125.0071 to read as follows:

4 Sec. 125.0071. PROVISION OF PAPER BALLOT. A ballot printed  
5 on secure paper shall be provided to each voter. A paper ballot  
6 provided under this section, after being voted by the voter, must be  
7 scanned at the polling place with a non-software-programmable  
8 optical scanner. The secretary of state shall prescribe  
9 specifications for a secure ballot and an optical scanner that  
10 meets the requirements of this section.

11 SECTION 22. Subchapter A, Chapter 125, Election Code, is  
12 amended by adding Section 125.011 to read as follows:

13 Sec. 125.011. USE OF BALLOT MARKING DEVICE. A voting system  
14 that consists of a ballot marking device may not be used in an  
15 election.

16 SECTION 23. Chapter 279, Election Code, is amended by  
17 adding Section 279.004 to read as follows:

18 Sec. 279.004. TRANSMISSION BETWEEN SECRETARY OF STATE AND  
19 COUNTY ELECTION OFFICERS. (a) In this section, "asymmetric  
20 cryptography" means a system of cryptography that employs a pair of  
21 keys, one known to county election officers, the other only known to  
22 the secretary of state, to encrypt and decrypt the transmission of  
23 election data.

24 (b) Any transmission of election data that occurs between  
25 the secretary of state and a county election officer must be done  
26 through:

27 (1) a secure virtual private network; or

1           (2) a landline link that employs asymmetric  
2 cryptology.

3           SECTION 24. The following provisions of the Election Code  
4 are repealed:

- 5           (1) Section 31.014;
- 6           (2) Section 43.004 (c);
- 7           (3) Section 43.007;
- 8           (4) Section 63.004 (e);
- 9           (5) Section 63.002 (d);
- 10          (6) Sections 64.009 (f), (f-1), (g), and (h);
- 11          (7) Section 82.003;
- 12          (8) Section 84.0111 (c);
- 13          (9) Sections 85.001 (b) and (e); and
- 14          (10) Section 85.062 (f-1).

15           SECTION 25. The changes in law made by this Act apply only  
16 to an election held on or after the effective date of this Act. An  
17 election held before the effective date of this Act is governed by  
18 the law in effect when the election was held, and that law is  
19 continued in effect for that purpose.

20           SECTION 26. This Act takes effect immediately if it  
21 receives a vote of two-thirds of all the members elected to each  
22 house, as provided by Section 39, Article III, Texas Constitution.  
23 If this Act does not receive the vote necessary for immediate  
24 effect, this Act takes effect September 1, 2023.