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H.B. No. 1549

A BILL TO BE ENTITLED

AN ACT

relating to changes required in election laws to implement the federal Help America Vote Act of 2002.

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

SECTION 1. Section 13.002(c), Election Code, is amended to read as follows:

(c) A registration application must include:

(1) the applicant's first name, middle name, if any, last name, and former name, if any;

(2) the month, day, and year of the applicant's birth;

(3) a statement that the applicant is a United States citizen;

(4) a statement that the applicant is a resident of the county;

(5) a statement that the applicant has not been determined mentally incompetent by a final judgment of a court;

(6) a statement that the applicant has not been finally convicted of a felony or that the applicant is a felon eligible for registration under Section 13.001;

(7) the applicant's residence address or, if the residence has no address, the address at which the applicant receives mail and a concise description of the location of the applicant's residence;

(8) the following information:

1 (A) the applicant's Texas driver's license number
2 or the number of a personal identification card issued by the
3 Department of Public Safety;

4 (B) if the applicant has not been issued a number
5 described by Paragraph (A), the last four digits of the applicant's
6 social security number; or

7 (C) a statement by the applicant that the
8 applicant has not been issued a number described by Paragraph (A) or
9 (B);

10 (9) if the application is made by an agent, a statement
11 of the agent's relationship to the applicant; and

12 (10) [~~(9)~~] the city and county in which the applicant
13 formerly resided.

14 SECTION 2. Section 13.121(a), Election Code, is amended to
15 read as follows:

16 (a) The officially prescribed application form for
17 registration by mail must be in the form of a business reply
18 postcard, unless another form or system is used under Subsection
19 (b), with postage paid by the state. [~~The form may not be larger~~
20 ~~than the form in use immediately prior to January 1, 1986.~~] The
21 secretary of state shall design the form to enhance the legibility
22 of its contents.

23 SECTION 3. Section 13.122, Election Code, is amended by
24 amending Subsection (a) and by adding Subsection (d) to read as
25 follows:

26 (a) In addition to the other statements and spaces for
27 entering information that appear on an officially prescribed

1 registration application form, each official form must include:

2 (1) the statement: "I understand that giving false
3 information to procure a voter registration is perjury and a crime
4 under state and federal law.";

5 (2) a space for the applicant's registration number;

6 (3) a space for the applicant's Texas driver's license
7 number or number of a personal identification card issued by the
8 Department of Public Safety;

9 (4) a space for the applicant's telephone number;

10 (5) a space for the applicant's social security
11 number;

12 (6) a space for the applicant's sex;

13 (7) a statement indicating that the furnishing of the
14 applicant's [~~driver's license number, personal identification card~~
15 ~~number,~~] telephone number[~~, social security number,~~] and sex is
16 optional;

17 (8) a space or box for indicating whether the
18 applicant or voter is submitting new registration information or a
19 change in current registration information;

20 (9) a statement instructing a voter who is using the
21 form to make a change in current registration information to enter
22 the voter's name and the changed information in the appropriate
23 spaces on the form;

24 (10) a statement that if the applicant declines to
25 register to vote, that fact will remain confidential and will be
26 used only for voter registration purposes;

27 (11) a statement that if the applicant does register

1 to vote, information regarding the agency or office to which the
2 application is submitted will remain confidential and will be used
3 only for voter registration purposes; and

4 (12) any other voter registration information
5 required by federal law or considered appropriate and required by
6 the secretary of state.

7 (d) The secretary of state shall prescribe procedures to
8 inform an applicant who applies for registration by mail of the
9 requirement that before voting for the first time in an election for
10 federal office an applicant must provide a copy of a document
11 described by Section 63.0101 that establishes the applicant's
12 identity. The procedures must include providing an instructional
13 sheet to be distributed with the official registration application
14 form describing the requirement and a method by which an applicant
15 may submit the document along with the official registration
16 application form. This subsection expires on the earlier of:

17 (1) January 1, 2006; or

18 (2) the date the secretary of state certifies that the
19 statewide computerized voter registration list has been
20 implemented.

21 SECTION 4. Section 18.005(a), Election Code, is amended to
22 read as follows:

23 (a) Each original and supplemental list of registered
24 voters must:

25 (1) contain the voter's name, residence address, date
26 of birth, and registration number as provided by the statewide
27 computerized voter registration list;

1 (2) be arranged alphabetically by voter name; ~~and~~

2 (3) contain the notation required by Section 15.111;

3 and

4 (4) until Section 13.122(d) expires, identify each
5 voter registered by mail for the first time who failed to provide a
6 copy of a document described by Section 63.0101 establishing the
7 voter's identity at the time of registration.

8 SECTION 5. Effective January 1, 2006, the heading to
9 Subchapter C, Chapter 18, Election Code, is amended to read as
10 follows:

11 SUBCHAPTER C. STATEWIDE VOTER REGISTRATION LIST [~~REGISTRATION~~
12 ~~SERVICE PROGRAM~~]

13 SECTION 6. Effective January 1, 2006, Section 18.061,
14 Election Code, is amended to read as follows:

15 Sec. 18.061. STATEWIDE COMPUTERIZED VOTER REGISTRATION
16 LIST [~~REGISTRATION SERVICE PROGRAM AUTHORIZED~~]. (a) The secretary
17 of state shall [~~may~~] implement and maintain a statewide
18 computerized voter registration list that serves as the single
19 system for storing and managing the official list of registered
20 voters in the state [~~registration service program to assist~~
21 ~~registrars in maintaining accurate lists of registered voters~~].

22 (b) The statewide computerized voter registration list [~~A~~
23 ~~service program~~] must [~~include~~]:

24 (1) contain the name and registration information of
25 each voter registered in the state [~~obtaining registration~~
26 ~~information from registrars and other available sources for a~~
27 ~~master file on registered voters~~];

1 (2) assign a unique identifier to each registered
2 voter [~~periodically obtaining information from registrars and~~
3 ~~other available sources for the following purposes:~~

4 [~~(A) to aid in determining the proper status of~~
5 ~~voters on the lists of registered voters; and~~

6 [~~(B) to aid in ascertaining the proper~~
7 ~~registration information for each registered voter]; and~~

8 (3) be available to any election official in the state
9 through immediate electronic access [~~furnishing information that~~
10 ~~may be useful to the registrars in the performance of their official~~
11 ~~duties].~~

12 (c) Under procedures prescribed by the secretary of state,
13 each voter registrar shall provide to the secretary of state on an
14 expedited basis the information necessary to maintain the
15 registration list established under Subsection (a). The procedures
16 shall provide for the electronic submission of the information.
17 [~~The secretary of state may contract with counties to provide them~~
18 ~~with electronic data services to facilitate the implementation of~~
19 ~~the registration service program. The secretary shall use funds~~
20 ~~collected under the contracts to defray expenses incurred in~~
21 ~~implementing the registration service program.]~~

22 SECTION 7. Effective January 1, 2006, Section 18.064,
23 Election Code, is amended to read as follows:

24 Sec. 18.064. SANCTION FOR NONCOMPLIANCE. If a registrar
25 fails to substantially comply with Section 15.083 [~~14.025~~], 16.032,
26 18.042, or 18.061 [~~18.063~~] or with rules adopted by the secretary of
27 state implementing the statewide computerized voter registration

1 list [~~registration service program~~], the registrar is not entitled
2 to receive state funds for financing voter registration in the
3 county.

4 SECTION 8. Effective January 1, 2006, Section 18.065(a),
5 Election Code, is amended to read as follows:

6 (a) The secretary of state shall monitor each registrar for
7 substantial compliance with Sections 15.083 [~~14.025~~], 16.032,
8 18.042, and 18.061 [~~18.063~~] and with rules implementing the
9 statewide computerized voter registration list [~~registration~~
10 ~~service program~~].

11 SECTION 9. Effective January 1, 2006, the heading to
12 Section 18.066, Election Code, is amended to read as follows:

13 Sec. 18.066. AVAILABILITY OF STATEWIDE COMPUTERIZED VOTER
14 REGISTRATION LIST [~~MASTER FILE~~] INFORMATION.

15 SECTION 10. Effective January 1, 2006, Section 18.066(a),
16 Election Code, is amended to read as follows:

17 (a) The secretary of state shall furnish information in the
18 statewide computerized voter registration list [~~state master file~~]
19 to any person on request not later than the 15th day after the date
20 the request is received.

21 SECTION 11. Effective January 1, 2006, the heading to
22 Section 18.067, Election Code, is amended to read as follows:

23 Sec. 18.067. UNLAWFUL USE OF STATEWIDE COMPUTERIZED VOTER
24 REGISTRATION LIST [~~MASTER FILE~~] INFORMATION.

25 SECTION 12. Section 19.004, Election Code, is amended by
26 amending Subsection (a) and adding Subsection (d) to read as
27 follows:

1 (a) Except as provided by Subsection (d), state [~~State~~]
2 funds disbursed under this chapter may be used only to defray
3 expenses of the registrar's office in connection with voter
4 registration, including additional expenses related to:

5 (1) implementation of the National Voter Registration
6 Act of 1993 (42 U.S.C. Section 1973gg et seq.); and

7 (2) complying with the weekly updating requirements
8 prescribed by Section 18.063.

9 (d) If the secretary of state determines that federal
10 matching funds are available under the federal Help America Vote
11 Act of 2002, the secretary of state shall certify to the comptroller
12 the amount of state funds required to qualify for the maximum amount
13 of federal matching funds. On receipt of the certification, the
14 comptroller shall deposit from funds otherwise available under this
15 chapter an amount equal to the certified amount in the election
16 improvement fund established under Section 31.011.

17 SECTION 13. Chapter 31, Election Code, is amended by adding
18 Sections 31.010 and 31.011 to read as follows:

19 Sec. 31.010. IMPLEMENTATION OF FEDERAL HELP AMERICA VOTE
20 ACT. (a) The secretary of state may adopt rules as necessary to
21 implement the federal Help America Vote Act of 2002.

22 (b) The secretary of state shall adopt rules establishing
23 state-based administrative complaint procedures to remedy
24 grievances that meet the requirements of Section 402(a) of the
25 federal Help America Vote Act of 2002.

26 Sec. 31.011. ELECTION IMPROVEMENT FUND. (a) The election
27 improvement fund is created as a dedicated account in the general

1 revenue fund and consists of federal funds designated for election
2 improvement, matching funds from the state or a political
3 subdivision, and depository interest earned on the assets of the
4 fund.

5 (b) Money in the fund may be appropriated only to provide
6 funding for the following purposes:

7 (1) to improve election administration at the state
8 and local level;

9 (2) to make grants to local governments for the
10 improvement or replacement of voting systems;

11 (3) to create a single uniform official centralized
12 interactive voter registration database; and

13 (4) to comply with other election requirements of the
14 federal government.

15 (c) The fund is exempt from the application of Section
16 403.095, Government Code.

17 SECTION 14. Section 41.001(a), Election Code, is amended to
18 read as follows:

19 (a) Except as otherwise provided by this subchapter, each
20 general or special election in this state shall be held on one of
21 the following dates:

22 (1) the first Saturday in February;

23 (2) the third [~~first~~] Saturday in May;

24 (3) the second Saturday in September; or

25 (4) the first Tuesday after the first Monday in
26 November.

27 SECTION 15. Section 41.0052(a), Election Code, is amended

1 to read as follows:

2 (a) The governing body of a political subdivision other than
3 a county may, not later than December 31, 2004 [~~1999~~], change the
4 date on which it holds its general election for officers to another
5 authorized uniform election date. [~~An election on the new date may~~
6 ~~not be held before 2000.~~]

7 SECTION 16. Section 41.007(b), Election Code, is amended to
8 read as follows:

9 (b) The runoff primary election date is the third [~~second~~]
10 Tuesday in April following the general primary election.

11 SECTION 17. Section 52.008(a), Election Code, is amended to
12 read as follows:

13 (a) The authority responsible for procuring the election
14 supplies shall [~~may~~] have a supply of sample ballots printed.

15 SECTION 18. Section 52.074, Election Code, is amended to
16 read as follows:

17 Sec. 52.074. PROVISIONAL BALLOT [~~STUB~~] FOR CERTAIN VOTERS.

18 [~~(a)~~] The authority responsible for having the official ballot
19 prepared shall have a provisional [~~detached~~] ballot [~~stub~~] prepared
20 in a form approved by the secretary of state [~~as provided by this~~
21 ~~section~~] for use by a voter who executes an affidavit in accordance
22 with Section 63.011 [~~63.010~~].

23 [~~(b)~~] ~~The ballot stub shall be in a form approved by the~~
24 ~~secretary of state and must include:~~

25 [~~(1)~~] ~~a space for entering the number matching the~~
26 ~~corresponding ballot number,~~

27 [~~(2)~~] ~~spaces for entering the designation of the nature~~

1 ~~of the election and the date of the election;~~

2 ~~[(3) the instruction: "Sign ballot stub, enclose in~~
3 ~~envelope, and give to election officer."; and~~

4 ~~[(4) a space for the voter's signature.]~~

5 SECTION 19. Section 61.005, Election Code, is amended to
6 read as follows:

7 Sec. 61.005. SECURITY OF BALLOTS, BALLOT BOXES, [~~STUBS,~~
8 AND ENVELOPES. (a) From the time a presiding judge receives the
9 official ballots for an election until the precinct returns for
10 that election have been certified, the presiding judge shall take
11 the precautions necessary to prevent access to the ballots, ballot
12 boxes, [~~ballot stubs,~~] and [~~stub~~] envelopes used for provisional
13 ballots in a manner not authorized by law.

14 (b) The ballots, ballot boxes, [~~ballot stubs,~~] and [~~stub~~]
15 envelopes used for provisional ballots at a polling place shall be
16 in plain view of at least one election officer from the time the
17 polls open for voting until the precinct returns have been
18 certified.

19 (c) A presiding election judge commits an offense if the
20 judge fails to prevent another person from handling a ballot box
21 containing voters' marked ballots or an envelope containing a
22 voter's provisional ballot [~~voters' signed ballot stubs~~] in an
23 unauthorized manner or from making an unauthorized entry into the
24 ballot box or envelope. An offense under this subsection is a Class
25 A misdemeanor.

26 SECTION 20. Subchapter A, Chapter 61, Election Code, is
27 amended by adding Section 61.012 to read as follows:

1 Sec. 61.012. ACCESS BY PERSONS WITH DISABILITIES. (a) Not
2 later than January 1, 2006, each polling place must provide at least
3 one voting station that:

4 (1) complies with Section 504 of the federal
5 Rehabilitation Act of 1973 (29 U.S.C. Section 794) and its
6 subsequent amendments and Title II of the federal Americans with
7 Disabilities Act (42 U.S.C. Section 12131 et seq.) and its
8 subsequent amendments; and

9 (2) provides a practical and effective means for
10 voters with physical disabilities to cast a secret ballot.

11 (b) Subsection (a) applies only to a polling place that uses
12 an electronic voting system unless the secretary of state certifies
13 that federal law requires the application of Subsection (a) to all
14 forms of voting at a polling place.

15 SECTION 21. Section 62.006, Election Code, is amended to
16 read as follows:

17 Sec. 62.006. PLACING BOX [~~AND ENVELOPE~~] FOR DEPOSIT OF
18 MARKED BALLOTS [~~AND STUBS~~]. The ballot box to be used by the voters
19 to deposit marked ballots shall be locked. The ballot box and the
20 box used for the deposit of provisional ballots [~~envelope no. 5~~]
21 shall be placed where they will be in plain view of the election
22 officers, watchers, and persons waiting to vote.

23 SECTION 22. Section 62.009(c), Election Code, is amended to
24 read as follows:

25 (c) The provisional ballots [~~with stubs~~] shall be placed
26 separately from the regular ballots.

27 SECTION 23. Section 62.011, Election Code, is amended by

1 amending Subsections (b) and (c) and adding Subsection (d) to read
2 as follows:

3 (b) The secretary of state shall prescribe the form and
4 content of the instruction poster. If it is not practical to fit
5 all of the information required by this section on a single poster,
6 the secretary of state may provide for the use of two or more
7 posters to convey the information.

8 (c) The poster must include instructions applicable to the
9 election on:

- 10 (1) marking and depositing the ballot;
11 (2) voting for a write-in candidate;
12 (3) casting a straight-party vote;
13 (4) casting a provisional ballot;
14 (5) until the expiration of Section 13.122(d), voting
15 for the first time by a person who registered by mail; and
16 (6) [~~4~~] securing an additional ballot if the voter's
17 original ballot is spoiled.

18 (d) The poster must also include the following information:

- 19 (1) the date of the election and the hours during which
20 the polling place is open;
21 (2) general information on voting rights under state
22 and federal laws, including information on the right of an
23 individual to cast a provisional ballot and the individuals to
24 contact if a person believes these rights have been violated; and
25 (3) general information on state and federal laws that
26 prohibit acts of fraud or misrepresentation.

27 SECTION 24. Section 62.012, Election Code, is amended to

1 read as follows:

2 Sec. 62.012. POSTING SAMPLE BALLOT. An [~~If sample ballots~~
3 ~~are provided for a polling place, an~~] election officer shall post a
4 sample ballot in one or more locations in the polling place where it
5 can be read by persons waiting to vote.

6 SECTION 25. Section 63.008, Election Code, is amended to
7 read as follows:

8 Sec. 63.008. VOTER WITHOUT CERTIFICATE WHO IS ON LIST. (a)
9 A voter who does not present a voter registration certificate when
10 offering to vote, but whose name is on the list of registered voters
11 for the precinct in which the voter is offering to vote, shall be
12 accepted for voting if the voter executes an affidavit stating that
13 the voter does not have the voter's voter registration certificate
14 in the voter's possession at the polling place at the time of
15 offering to vote and[+

16 [~~(1)~~] the voter presents proof of identification in a
17 form described by Section 63.0101[~~, or~~

18 [~~(2) the affidavit is also signed by a person who is~~
19 ~~working at the polling place and who attests to the identity of the~~
20 ~~voter].~~

21 (b) If the requirements prescribed by Subsection (a) are not
22 met, the voter may [~~not~~] be accepted for provisional voting only
23 under Section 63.011[~~, and an election officer shall indicate~~
24 ~~beside the voter's name on the list of registered voters that the~~
25 ~~voter was rejected under this section].~~

26 SECTION 26. Section 63.009, Election Code, is amended to
27 read as follows:

1 Sec. 63.009. VOTER WITHOUT CERTIFICATE WHO IS NOT ON LIST.

2 (a) Except as provided by Subsection (b), a voter who does not
3 present a voter registration certificate when offering to vote, and
4 whose name is not on the list of registered voters for the precinct
5 in which the voter is offering to vote, shall be accepted for
6 provisional voting [~~if the voter presents proof of identification~~
7 ~~and executes an affidavit~~] in accordance with Section 63.011
8 [~~63.010~~].

9 (b) If an election officer can determine from the voter
10 registrar that the person is a registered voter of the county, the
11 affidavits required by Sections 63.007 and 63.008 are substituted
12 for the affidavit required by Section 63.011 [~~63.010~~] in complying
13 with that section. After the voter is accepted under this
14 subsection, an election officer shall also indicate beside the
15 voter's name on the poll list that the voter was accepted under this
16 section.

17 SECTION 27. Section 63.0101, Election Code, is amended to
18 read as follows:

19 Sec. 63.0101. DOCUMENTATION OF PROOF OF IDENTIFICATION.
20 The following documentation is acceptable as proof of
21 identification under this chapter:

22 (1) a driver's license or personal identification card
23 issued to the person by the Department of Public Safety or a similar
24 document issued to the person by an agency of another state,
25 regardless of whether the license or card has expired;

26 (2) a form of identification containing the person's
27 photograph that establishes the person's identity;

1 (3) a birth certificate or other document confirming
2 birth that is admissible in a court of law and establishes the
3 person's identity;

4 (4) United States citizenship papers issued to the
5 person;

6 (5) a United States passport issued to the person;

7 (6) [~~pre-printed checks containing the person's name~~
8 ~~that are issued for a financial institution doing business in this~~
9 ~~state,~~

10 [~~(7)~~] official mail addressed to the person by name
11 from a governmental entity;

12 (7) a copy of a current utility bill, bank statement,
13 government check, paycheck, or other government document that shows
14 the name and address of the voter [~~(8) two other forms of~~
15 ~~identification that establish the person's identity~~]; or

16 (8) [~~(9)~~] any other form of identification prescribed
17 by the secretary of state.

18 SECTION 28. Chapter 63, Election Code, is amended by adding
19 Section 63.011 to read as follows:

20 Sec. 63.011. PROVISIONAL VOTING. (a) A person to whom
21 Section 63.008(b) or 63.009(a) applies may cast a provisional
22 ballot if the person executes an affidavit stating that the person:

23 (1) is a registered voter in the precinct in which the
24 person seeks to vote; and

25 (2) is eligible to vote in the election.

26 (b) A form for the affidavit shall be printed on an envelope
27 in which the provisional ballot voted by the person may be placed

1 and must include a space for entering the identification number of
2 the provisional ballot voted by the person. The affidavit form may
3 include space for disclosure of any necessary information to enable
4 the person to register to vote under Chapter 13. The secretary of
5 state shall prescribe the form of the affidavit under this section.

6 (c) After executing the affidavit, the person shall be given
7 a provisional ballot for the election. An election officer shall
8 record the number of the ballot on the space provided on the
9 affidavit.

10 (d) An election officer shall enter "provisional vote" on
11 the poll list beside the name of each voter who is accepted for
12 voting under this section.

13 (e) A person who is permitted under a state or federal court
14 order to cast a ballot in an election for a federal office after the
15 time allowed by Subchapter B, Chapter 41, must cast the ballot as a
16 provisional vote in the manner required by this section.

17 SECTION 29. Section 63.012(a), Election Code, is amended to
18 read as follows:

19 (a) An election officer commits an offense if the officer
20 knowingly:

21 (1) permits an ineligible voter to vote other than as
22 provided by Section 63.011 [~~without having been challenged~~]; or

23 (2) refuses to accept a person for voting whose
24 acceptance is required by this code.

25 SECTION 30. Section 64.001, Election Code, is amended to
26 read as follows:

27 Sec. 64.001. VOTER TO SELECT AND PREPARE BALLOT[~~, DEPOSIT~~

1 ~~OF STUB~~]. (a) After a voter is accepted for voting, the voter shall
2 select a ballot, go to a voting station, and prepare the ballot[~~7~~
3 ~~except as provided by Subsection (b)~~].

4 (b) A voter who executes an affidavit in accordance with
5 Section 63.011 [~~63.010~~] shall select a provisional ballot [~~with a~~
6 ~~stub and, before going to a voting station:~~

7 [~~(1) unclip the stub and envelope from the ballot;~~

8 [~~(2) sign the stub and enclose it in the envelope; and~~

9 [~~(3) seal the envelope and give it to an election~~
10 ~~officer.~~

11 [~~(c) The election officer shall deposit the ballot stub~~
12 ~~enclosed in its envelope in envelope no. 5].~~

13 SECTION 31. Section 64.008, Election Code, is amended to
14 read as follows:

15 Sec. 64.008. DEPOSITING BALLOT. (a) Except as provided by
16 Subsection (b), after [~~After~~] a voter has marked the ballot, the
17 voter shall fold the ballot to conceal the way it is marked but to
18 expose the presiding judge's signature, and shall deposit it in the
19 ballot box used for the deposit of marked ballots.

20 (b) After a voter has marked a provisional ballot, the
21 voter shall enclose the ballot in the envelope on which the voter's
22 executed affidavit is printed. The person shall seal the envelope
23 and deposit it in a box available for the deposit of provisional
24 ballots.

25 (c) At the time a person casts a provisional ballot under
26 Subsection (b), an election officer shall give the person written
27 information describing how the person may use the free access

1 system established under Section 65.059 to obtain information on
2 the disposition of the person's vote.

3 SECTION 32. Sections 65.001-65.015, Election Code, are
4 designated as Subchapter A, Chapter 65, Election Code, and a
5 heading is added to that subchapter to read as follows:

6 SUBCHAPTER A. COUNTING VOTES GENERALLY

7 SECTION 33. Section 65.009, Election Code, is amended by
8 adding Subsection (d) to read as follows:

9 (d) The intent of the voter in marking a ballot may be
10 determined by:

11 (1) a distinguishing mark adjacent to the name of a
12 candidate or political party or a voting choice associated with a
13 proposition;

14 (2) an oval, box, or similar marking clearly drawn
15 around the name of a candidate or political party or a voting choice
16 associated with a proposition;

17 (3) a line drawn through:

18 (A) the names of all candidates in a manner that
19 indicates a preference for the candidates not marked if the names of
20 the candidates not marked do not exceed the number of persons that
21 may be elected to that office;

22 (B) the name of each political party except one
23 in a manner that clearly indicates a preference for the political
24 party not marked; or

25 (C) a voting choice associated with a proposition
26 in a manner that clearly indicates a preference for the other voting
27 choice associated with the proposition; or

1 (4) any other evidence that clearly indicates the
2 intent of the voter in choosing a candidate or political party or
3 deciding on a proposition.

4 SECTION 34. Section 65.010(a), Election Code, is amended to
5 read as follows:

6 (a) The following ballots may not be counted:

7 (1) a ballot that is not provided to the voter at the
8 polling place;

9 (2) two or more ballots that are folded together in a
10 manner indicating that they were folded together when deposited in
11 the ballot box;

12 (3) a write-in envelope containing a write-in vote
13 without an attached ballot;

14 (4) a ballot that has not been deposited in the ballot
15 box used for the deposit of marked ballots; or

16 (5) a provisional ballot that is not accepted under
17 Subchapter B [with an unsigned stub].

18 SECTION 35. Chapter 65, Election Code, is amended by adding
19 Subchapter B to read as follows:

20 SUBCHAPTER B. VERIFICATION AND COUNTING OF PROVISIONAL BALLOTS

21 Sec. 65.051. DUTY OF EARLY VOTING BALLOT BOARD. (a) The
22 early voting ballot board shall verify and count provisional
23 ballots as provided by this subchapter not later than the seventh
24 day after the date of an election.

25 (b) Except as provided by this subchapter, the conduct of
26 the board is governed by the same procedures as are provided by
27 Chapter 87.

1 Sec. 65.052. DUTY OF VOTER REGISTRAR. The secretary of
2 state shall prescribe procedures by which the voter registrar of
3 the county in which a provisional ballot is cast shall provide
4 assistance to the early voting ballot board in executing its
5 authority under this subchapter.

6 Sec. 65.053. DELIVERY OF PROVISIONAL BALLOTS. The
7 presiding judge of an election precinct shall deliver in person to a
8 member of the early voting ballot board the box containing each
9 envelope containing a provisional ballot that was cast in the
10 precinct.

11 Sec. 65.054. ACCEPTING PROVISIONAL BALLOT. (a) The early
12 voting ballot board shall examine each affidavit executed under
13 Section 63.011 and determine whether to accept the provisional
14 ballot of the voter who executed the affidavit.

15 (b) A provisional ballot may be accepted only if the board
16 determines that, from the information in the affidavit or contained
17 in public records, the person is eligible to vote in the election.

18 (c) If a provisional ballot is accepted, the board shall
19 enter the voter's name on a list of voters whose provisional ballots
20 are accepted.

21 (d) If a provisional ballot is rejected, the board shall
22 indicate the rejection by marking "rejected" on the envelope
23 containing the provisional ballot.

24 Sec. 65.055. DISPOSITION OF ACCEPTED PROVISIONAL BALLOT AND
25 AFFIDAVIT. (a) The early voting ballot board shall open each
26 envelope containing an accepted provisional ballot without
27 defacing the affidavit located on the outside of the envelope and

1 shall remove the ballot.

2 (b) The board shall place the ballot in a ballot box
3 containing all the provisional ballots accepted for voting in the
4 election.

5 (c) For each accepted provisional ballot, the board shall
6 place the corresponding envelope on which is printed the voter's
7 affidavit executed under Section 63.011 in a sealed envelope and
8 shall deliver the envelope to the general custodian of election
9 records, to be retained for the period for preserving precinct
10 election returns.

11 Sec. 65.056. DISPOSITION OF REJECTED PROVISIONAL BALLOT.

12 (a) If the affidavit on the envelope of a rejected provisional
13 ballot contains the information necessary to enable the person to
14 register to vote under Chapter 13, the early voting ballot board
15 shall send a copy of the affidavit to the voter registrar. On
16 receipt, the voter registrar shall treat the copy as an application
17 for registration under Chapter 13.

18 (b) The early voting ballot board shall place the envelopes
19 containing rejected provisional ballots in an envelope and shall
20 seal the envelope. More than one envelope may be used if necessary.

21 (c) The envelope for the rejected provisional ballots must
22 indicate the date and identity of the election, be labeled
23 "rejected provisional ballots," and be signed by the board's
24 presiding judge.

25 (d) A board member shall deliver the envelope containing the
26 rejected provisional ballots to the general custodian of election
27 records to be preserved for the period for preserving the precinct

1 election records. The envelope may not be placed in the box
2 containing the accepted provisional ballots.

3 Sec. 65.057. PROCESSING ACCEPTED PROVISIONAL BALLOTS. (a)
4 The early voting ballot board shall count accepted provisional
5 ballots as follows:

6 (1) for ballots to be counted manually, in the manner
7 provided by Subchapter D, Chapter 87;

8 (2) for ballots to be counted by automatic tabulating
9 equipment at a central counting station, in the manner provided by
10 Subchapter F, Chapter 87; and

11 (3) for ballots to be counted by any other means, in
12 the manner provided by rules adopted by the secretary of state.

13 (b) On counting the ballots under this section, the board
14 shall report the results to the local canvassing authority for the
15 election.

16 Sec. 65.058. PRESERVATION OF PROVISIONAL VOTING RECORDS
17 GENERALLY. The returns of provisional ballots that are accepted,
18 the accepted ballots, and other provisional voting records shall be
19 preserved after the election in the same manner as the
20 corresponding precinct election returns.

21 Sec. 65.059. NOTICE TO PROVISIONAL VOTER. The early voting
22 ballot board shall implement a system, under rules adopted by the
23 secretary of state, to allow a person who casts a provisional ballot
24 under Section 63.011 to obtain access free of charge to information
25 on the disposition of the person's ballot. The system:

26 (1) must allow the person to determine whether the
27 person's ballot was counted, and, if the person's ballot was not

1 accepted, must indicate the reason why;

2 (2) must provide the information only to the person
3 who cast the provisional ballot; and

4 (3) may involve the use of a toll-free telephone
5 number or the Internet.

6 SECTION 36. Section 66.003, Election Code, is amended to
7 read as follows:

8 Sec. 66.003. ENVELOPES FOR DISTRIBUTION OF RECORDS. (a)
9 Four [~~Five~~] envelopes shall be furnished to each polling place for
10 use in assembling and distributing the precinct election records.

11 (b) The envelopes shall be labeled and addressed as follows:

12 (1) "Envelope No. 1," addressed to the presiding
13 officer of the local canvassing authority;

14 (2) "Envelope No. 2," addressed to the general
15 custodian of election records;

16 (3) "Envelope No. 3," addressed to the presiding
17 judge; and

18 (4) "Envelope No. 4," addressed to the voter
19 registrar [~~, and~~

20 [~~(5) "Envelope No. 5," addressed to the general~~
21 ~~custodian of election records]~~].

22 SECTION 37. Section 66.021(b), Election Code, is amended to
23 read as follows:

24 (b) The judge shall seal envelopes no. 1, no. 2, and no. 4 [~~7~~
25 ~~and no. 5]~~ and lock ballot boxes no. 3 and no. 4 as soon as they are
26 ready for distribution.

27 SECTION 38. Section 66.0241, Election Code, is amended to

1 read as follows:

2 Sec. 66.0241. CONTENTS OF ENVELOPE NO. 4. Envelope no. 4
3 must contain:

- 4 (1) the precinct list of registered voters;
5 (2) the registration correction list;
6 (3) the registration omissions list;
7 (4) any statements of residence executed under Section
8 63.0011; and
9 (5) any affidavits executed under Section 63.007 or
10 63.011 [~~63.010~~].

11 SECTION 39. Section 66.051(b), Election Code, is amended to
12 read as follows:

13 (b) The presiding judge shall deliver envelope no. 2,
14 [~~envelope no. 5,~~] ballot box no. 3, and ballot box no. 4 and its key
15 in person to the general custodian of election records.

16 SECTION 40. Sections 66.058(b), (c), and (d), Election
17 Code, are amended to read as follows:

18 (b) The voted ballots [~~and ballot stubs~~] shall be preserved
19 securely in a locked room in the locked ballot box [~~or sealed~~
20 ~~envelope, as applicable,~~] in which they are delivered to the
21 general custodian of election records. Except as permitted by this
22 code, a ballot box containing voted ballots [~~or an envelope~~
23 ~~containing ballot stubs~~] may not be opened during the preservation
24 period.

25 (c) If during the preservation period an authorized entry is
26 made into a ballot box containing voted ballots [~~or an envelope~~
27 ~~containing ballot stubs~~], when the purpose for the entry is

1 fulfilled, the box [~~or envelope~~] shall be relocked [~~or resealed, as~~
2 ~~applicable~~], and the box and key [~~or envelope~~] returned to the
3 custodian.

4 (d) A custodian of a ballot box containing voted ballots [~~or~~
5 ~~an envelope containing ballot stubs~~] commits an offense if, during
6 the preservation period prescribed by Subsection (a), the
7 custodian:

8 (1) makes an unauthorized entry into the box [~~or~~
9 ~~envelope~~]; or

10 (2) fails to prevent another person from handling the
11 box [~~or envelope~~] in an unauthorized manner or from making an
12 unauthorized entry into the box [~~or envelope~~].

13 SECTION 41. Section 66.059, Election Code, is amended to
14 read as follows:

15 Sec. 66.059. RETRIEVING ERRONEOUSLY PLACED ELECTION
16 RECORDS. (a) On written application by the presiding officer of
17 the local canvassing authority or the presiding judge of the
18 election precinct, a district judge of the county in which a ballot
19 box containing voted ballots [~~or an envelope containing ballot~~
20 ~~stubs~~] is in custody may order the box [~~or envelope~~] opened to
21 retrieve an election record that was erroneously placed in the box
22 [~~or envelope~~].

23 (b) The district judge shall post a notice of the date,
24 hour, and place for opening the box [~~or envelope~~] on the bulletin
25 board used for posting notices of the meetings of the governing body
26 of the political subdivision served by the general custodian of
27 election records. The notice must remain posted continuously for

1 the 24 hours immediately preceding the hour set for opening the box
2 [~~or envelope~~].

3 (c) Any interested person may observe the opening of the box
4 [~~or envelope~~].

5 (d) The district judge shall issue the orders necessary to
6 safeguard the contents of a ballot box [~~or envelope~~] opened under
7 this section.

8 SECTION 42. Section 67.003, Election Code, is amended to
9 read as follows:

10 Sec. 67.003. TIME FOR LOCAL CANVASS. Each local canvassing
11 authority shall convene to conduct the local canvass at the time set
12 by the canvassing authority's presiding officer:

13 (1) on the eighth [~~seventh~~] day after election day for
14 the general election for state and county officers; or

15 (2) not earlier than the eighth [~~third~~] day or later
16 than the 11th [~~sixth~~] day after election day for an election other
17 than the general election for state and county officers.

18 SECTION 43. Section 86.002, Election Code, is amended by
19 adding Subsection (f) to read as follows:

20 (f) For an election for a federal office, if the list of
21 registered voters indicates that the voter did not provide a copy of
22 a document described by Section 63.0101 establishing the voter's
23 identity at the time of initial registration by mail, the clerk
24 shall provide with the balloting materials notice to the voter that
25 the voter must provide a copy of a document described by Section
26 63.0101 establishing the voter's identity when returning the
27 ballot. The secretary of state shall prescribe the form of the

1 notice. This subsection expires on the earlier of:

2 (1) January 1, 2006; or

3 (2) the date the secretary of state certifies that the
4 statewide computerized voter registration list has been
5 implemented.

6 SECTION 44. Section 86.005, Election Code, is amended by
7 adding Subsection (f) to read as follows:

8 (f) If the voter is required to provide a copy of a document
9 described by Section 63.0101 establishing the voter's identity, the
10 voter shall include the copy in the official carrier envelope. This
11 subsection expires on the expiration of Section 86.002(f).

12 SECTION 45. Subchapter C, Chapter 87, Election Code, is
13 amended by adding Section 87.0411 to read as follows:

14 Sec. 87.0411. ACCEPTANCE OF NEW VOTER IN ELECTION FOR
15 FEDERAL OFFICE. (a) A ballot for which notice was provided under
16 Section 86.002(f) may be accepted only if:

17 (1) the voter provided the required documentation of
18 the voter's identity; or

19 (2) the early voting ballot board determines that the
20 person is eligible to vote.

21 (b) This section expires on the expiration of Section
22 86.002(f).

23 SECTION 46. Section 101.005(c), Election Code, is amended
24 to read as follows:

25 (c) An application shall be treated as if it requests a
26 ballot for:

27 (1) a runoff election that results from an election

1 for which a ballot is requested; and

2 (2) each election for a federal office, including a
3 primary or runoff election, that occurs on or before the date of the
4 second general election for state and county officers that occurs
5 after the date the application is submitted.

6 SECTION 47. Section 101.006(a), Election Code, is amended
7 to read as follows:

8 (a) The submission of a federal postcard application that
9 complies with the applicable requirements by an unregistered
10 applicant constitutes registration by the applicant only for the
11 purpose of voting in the election for which a ballot is requested
12 and each election for a federal office that occurs on or before the
13 date of the second general election for state and county officers
14 that occurs after the date the application is submitted.

15 SECTION 48. Chapter 101, Election Code, is amended by
16 adding Section 101.013 to read as follows:

17 Sec. 101.013. DESIGNATION OF SECRETARY OF STATE. The
18 secretary of state is designated as the state office to provide
19 information regarding voter registration procedures and absentee
20 ballot procedures, including procedures related to the federal
21 write-in absentee ballot, to be used by persons eligible to vote
22 under the federal Uniformed and Overseas Citizens Absentee Voting
23 Act (42 U.S.C. Section 1973ff et seq.), as amended.

24 SECTION 49. Section 122.001, Election Code, is amended by
25 amending Subsection (a) and adding Subsections (d) and (e) to read
26 as follows:

27 (a) A voting system may not be used in an election unless the

1 system:

2 (1) preserves the secrecy of the ballot;

3 (2) is suitable for the purpose for which it is
4 intended;

5 (3) operates safely, efficiently, and accurately and
6 complies with the error rate standards of the voting system
7 standards adopted by the Federal Election Commission;

8 (4) is safe from fraudulent or unauthorized
9 manipulation;

10 (5) permits voting on all offices and measures to be
11 voted on at the election;

12 (6) prevents counting votes on offices and measures on
13 which the voter is not entitled to vote;

14 (7) prevents counting votes by the same voter for more
15 than one candidate for the same office or, in elections in which a
16 voter is entitled to vote for more than one candidate for the same
17 office, prevents counting votes for more than the number of
18 candidates for which the voter is entitled to vote;

19 (8) prevents counting a vote on the same office or
20 measure more than once;

21 (9) permits write-in voting;

22 (10) is capable of permitting straight-party voting;
23 and

24 (11) is capable of providing records from which the
25 operation of the voting system may be audited.

26 (d) Effective January 1, 2006, a voting system may not be
27 used in an election if the system uses:

- 1 (1) mechanical voting machines; or
2 (2) a punch-card ballot or similar form of tabulating
3 card.

4 (e) For an election for federal office in which a state or
5 federal court order has extended the time for voting beyond the time
6 allowed by Subchapter B, Chapter 41, a voting system must provide a
7 separate count of the votes cast after the time allowed by that
8 subchapter.

9 SECTION 50. Section 124.006, Election Code, is amended to
10 read as follows:

11 Sec. 124.006. IMPLEMENTATION OF PROVISIONAL BALLOT [~~STUB~~]
12 SYSTEM. The secretary of state shall prescribe the form of a
13 provisional ballot [~~stub and ballot for use with a stub~~] and the
14 necessary procedures to implement the casting of a provisional
15 ballot as described by Section 63.011 and the verification and
16 processing of provisional ballots under Subchapter B, Chapter 65,
17 for [~~ballot stub system prescribed by Section 52.074 for use with~~]
18 each voting system used in this state.

19 SECTION 51. Section 127.130, Election Code, is amended by
20 adding Subsection (c-1) to read as follows:

21 (c-1) In any manual count conducted under this code, an
22 irregularly marked vote on a ballot on which a voter indicates a
23 vote by making a mark on the ballot is considered in the same manner
24 as provided by Section 65.009.

25 SECTION 52. Section 172.116(b), Election Code, is amended
26 to read as follows:

27 (b) The committee shall convene to conduct the local canvass

1 at the county seat not earlier than 6 p.m. on the second [~~first~~]
2 Thursday or later than 1 p.m. on the second [~~first~~] Friday after
3 election day at the hour specified by the county chair.

4 SECTION 53. Sections 203.012(a) and (b), Election Code, are
5 amended to read as follows:

6 (a) The commissioners court shall convene to conduct the
7 local canvass not later than the 10th [~~third~~] day after election
8 day.

9 (b) The governor shall conduct the state canvass not later
10 than the 14th [~~seventh~~] day after election day.

11 SECTION 54. Section 213.007(a), Election Code, is amended
12 to read as follows:

13 (a) On presentation by a recount committee chair of a
14 written order signed by the recount supervisor, the custodian of
15 voted ballots, voting machines or test materials or programs used
16 in counting electronic voting system ballots shall make the
17 ballots, machines, or materials or programs, including the records
18 from which the operation of the voting system may be audited,
19 available to the committee.

20 SECTION 55. Section 221.008, Election Code, is amended to
21 read as follows:

22 Sec. 221.008. EXAMINATION OF SECURED BALLOTS AND EQUIPMENT.
23 A tribunal hearing an election contest may cause secured ballot
24 boxes, [~~envelopes,~~] voting machines, voting devices, or other
25 equipment used in the election to be unsecured to determine the
26 correct vote count or any other fact that the tribunal considers
27 pertinent to a fair and just disposition of the contest.

1 SECTION 56. Sections 273.041, 273.042, and 273.043,
2 Election Code, are amended to read as follows:

3 Sec. 273.041. REQUEST TO EXAMINE BALLOTS. In the
4 investigation of criminal conduct in connection with an election, a
5 grand jury, on finding probable cause to believe an offense was
6 committed, may request a district judge of the county served by the
7 grand jury to order an examination of the voted ballots [~~and the~~
8 ~~ballot stubs~~] in the election.

9 Sec. 273.042. ORDER BY DISTRICT JUDGE. On request of a
10 grand jury for an examination of voted ballots [~~and ballot stubs~~], a
11 district judge may order the custodian of the ballots [~~and ballot~~
12 ~~stubs~~] and the custodian of the keys to the ballot boxes to deliver
13 the ballot boxes and the [~~7~~] keys [~~, and envelopes~~] to the grand
14 jury.

15 Sec. 273.043. CONDUCT OF EXAMINATION. The examination of
16 ballots [~~and ballot stubs~~] under this subchapter shall be conducted
17 in secret before the grand jury.

18 SECTION 57. (a) Sections 62.0081, 63.010, 65.005(d),
19 66.0242, and 66.058(h) and Chapter 88, Election Code, are repealed.

20 (b) Effective January 1, 2006, Sections 18.062, 18.063, and
21 122.0011, Election Code, are repealed.

22 SECTION 58. This Act takes effect January 1, 2004.