

By: Denny

H.B. No. 2283

A BILL TO BE ENTITLED

AN ACT

relating to the repeal of obsolete provisions of the Election Code governing the use of mechanical voting machines and punch-card ballots.

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

SECTION 1. Section 85.034(a), Election Code, is amended to read as follows:

(a) Early voting by personal appearance by a voter who is voting outside the early voting polling place under Section 64.009 shall be conducted in accordance with this section if voting at the early voting polling place is by voting machine ~~[or voting device unless the early voting clerk chooses to transport a voting device to the voter]~~.

SECTION 2. Section 104.001, Election Code, is amended to read as follows:

Sec. 104.001. ELIGIBILITY. A qualified voter in whose precinct polling place voting is conducted by voting machine ~~[or voting device]~~ is eligible to vote by the early voting procedure provided by this chapter if the voter has a sickness or physical condition that prevents the voter from voting in the regular manner without personal assistance or a likelihood of injuring the voter's health.

SECTION 3. Section 111.005(c), Election Code, is amended to read as follows:

1 (c) If an electronic system ballot is used, the restricted  
2 ballot shall be prepared by marking[, ~~punching,~~] or otherwise  
3 identifying an official early voting ballot so that votes on  
4 offices and propositions stating measures on which the voter is not  
5 entitled to vote may not be counted.

6 SECTION 4. Section 121.003, Election Code, is amended to  
7 read as follows:

8 Sec. 121.003. DEFINITIONS. In this title:

9 (1) "Voting system" means a method of casting and  
10 processing votes that is designed to function wholly or partly by  
11 use of mechanical, electromechanical, or electronic apparatus and  
12 includes the procedures for casting and processing votes and the  
13 programs, operating manuals, tabulating cards, printouts, and  
14 other software necessary for the system's operation.

15 (2) "Electronic voting system" means a voting system  
16 in which the ballots are automatically counted and the results  
17 automatically tabulated by use of electronically operated  
18 apparatus.

19 (3) "Voting machine" means an apparatus on which  
20 voters cast their votes, that records each vote, and that furnishes  
21 a total of the number of votes cast for the candidates and for and  
22 against the measures.

23 (4) [~~"Mechanical voting machine" means a voting~~  
24 ~~machine that is designed to function by the manual operation of a~~  
25 ~~lever or other device on the machine without the aid of electrical~~  
26 ~~power.~~]

27 [~~(5) "Voting device" means an apparatus that is~~]

1 ~~designed for use with punch-card ballots, that holds the punch-card~~  
2 ~~ballot label, and that enables a voter to position the ballot for~~  
3 ~~voting.~~

4           ~~(6)~~ "Voting system equipment" means any kind of  
5 mechanical, electromechanical, or electronic apparatus for use in a  
6 voting system.

7           (5) ~~(7)~~ "Automatic tabulating equipment" means  
8 equipment, other than a voting machine, that compiles vote totals  
9 by ballot sorting, ballot reading, ballot scanning, or electronic  
10 data processing.

11           (6) ~~(8)~~ "Public counter" means a registering device  
12 that cumulatively records the number of voters casting votes on a  
13 voting machine and that is constructed and installed on the machine  
14 in a way that provides an unobstructed view of the recorded number.

15           (7) ~~(9)~~ "Protective counter" means a registering  
16 device that permanently records the cumulative number of times that  
17 a voting machine has been operated and that is installed in the  
18 machine in a way that prevents resetting the device.

19           (8) ~~(10)~~ "Registering counter" means a registering  
20 device on a voting machine that records the votes cast for a  
21 particular candidate or for or against a particular measure.

22           ~~(11) "Mechanical machine ballot label" means the~~  
23 ~~cardboard or other material listing the candidates and propositions~~  
24 ~~that is attached to a mechanical voting machine to enable voters to~~  
25 ~~make their choices.~~

26           ~~(12) "Punch-card ballot label" means the paper or~~  
27 ~~other material listing the candidates and propositions that is~~

1 ~~designed for use with punch-card ballots to enable voters to make~~  
2 ~~their choices.~~

3 ~~[(13)] "Voting system ballot label" means a punch-card~~  
4 ~~ballot label or a mechanical machine ballot label.]~~

5 (9) ~~[(14)]~~ "Electronic system ballot" means a ballot  
6 designed for use with an electronic voting system.

7 (10) ~~[(15)]~~ "Punch-card ballot" means an electronic  
8 system ballot in the form of a tabulating card.

9 (11) ~~[(16)]~~ "Voting system ballot" means a ballot  
10 designed for use with a voting system.

11 (12) ~~[(17)]~~ "Direct recording electronic voting  
12 machine" or "DRE" means a voting machine that is designed to allow a  
13 direct vote on the machine by the manual touch of a screen, monitor,  
14 or other device and that records the individual votes and vote  
15 totals electronically.

16 SECTION 5. Section 122.033, Election Code, is amended to  
17 read as follows:

18 Sec. 122.033. ADDITIONAL REQUIREMENTS FOR APPROVAL OF  
19 VOTING MACHINE. ~~[(a)]~~ In addition to other requirements for  
20 approval, a voting machine must be equipped with:

21 (1) a security system capable of preventing operation  
22 of the machine;

23 (2) registering counters that can be secured against  
24 access;

25 (3) a public counter; and

26 (4) a protective counter.

27 ~~[(b)] The security system for a mechanical voting machine must~~

1 ~~be a lock and key system.]~~

2 SECTION 6. Section 123.033(e), Election Code, is amended to  
3 read as follows:

4 (e) The maximum amount that may be charged for leasing  
5 equipment to a county executive committee for a general or runoff  
6 primary is:

7 (1) ~~[\$16 for each mechanical voting machine,~~  
8 ~~[(2)]~~ \$5 for each unit of electronic voting system  
9 equipment installed at a polling place; and

10 (2) ~~[(3)]~~ \$5 for each unit of other equipment not  
11 specified by this subsection.

12 SECTION 7. Section 124.001, Election Code, is amended to  
13 read as follows:

14 Sec. 124.001. STRAIGHT-PARTY ARRANGEMENT. In an election  
15 in which voters are entitled to cast straight-party votes, the  
16 voting system ballot ~~[and ballot label]~~ shall be arranged to permit  
17 the voters to do so.

18 SECTION 8. Section 124.002, Election Code, is amended to  
19 read as follows:

20 Sec. 124.002. MANNER OF INDICATING PARTY ALIGNMENT. (a) In  
21 an election in which a candidate's name is to appear on the ballot  
22 as the nominee of a political party, the voting system ballot ~~[and~~  
23 ~~ballot label, as applicable,~~] shall be arranged:

24 (1) in party columns in the same manner as for a  
25 regular paper ballot on which a party nominee appears; or

26 (2) by listing the office titles in a vertical column  
27 in the same manner as for a regular paper ballot on which a party

nominee does not appear, except that the nominees' party alignments shall be indicated next to their names.

(b) The order in which party nominees listed by office title appear on a voting system ballot [~~or ballot label~~] is determined in accordance with the same priorities and in the same manner as for party nominees listed in party columns, with the changes appropriate to the circumstances.

SECTION 9. Sections 124.003(a), (c), and (d), Election Code, are amended to read as follows:

(a) Any unopposed candidates may be listed separately under the heading "Uncontested Races" on a voting system ballot [~~or ballot label~~].

(c) Candidates listed under the uncontested races heading may be arranged in a manner requiring voting on them as one or more blocs, but only if an additional ballot [~~or ballot label~~] would otherwise be necessary to accommodate all the candidates and propositions to be listed.

(d) The requirement that the ballot [~~or ballot label~~] be arranged to permit straight-party voting does not apply to candidates listed under the uncontested races heading.

SECTION 10. Section 124.063, Election Code, is amended to read as follows:

Sec. 124.063. INSTRUCTIONS REQUIRED ON BALLOT. (a) An electronic system ballot on which a voter indicates a vote by making a mark on [~~punching a hole in~~] the ballot must contain the following instruction if candidates are to be voted on: "Vote for the candidate of your choice in each race by making a mark [~~punch hole~~]"

1 in the space provided adjacent to the name of that candidate." If a  
2 proposition appears on the ballot, the ballot must contain the  
3 following instruction: "Make a mark [~~punch hole~~] in the space  
4 provided beside the statement indicating the way you desire to  
5 vote."

6 (b) [~~An electronic system ballot on which a voter indicates~~  
7 ~~a vote by making a mark on the ballot must comply with Subsection~~  
8 ~~(a), with the substitution of "mark" for "punch hole."~~]

9 [~~(c)~~] The instructions prescribed by Subsection  
10 [~~Subsections~~] (a) [~~and (b)~~] shall be changed appropriately if the  
11 election has only one race, more than one candidate is to be elected  
12 in a race, or other circumstances require an alteration of the  
13 instructions.

14 [~~(d) An electronic system ballot on which a voter indicates a~~  
15 ~~vote by punching a hole in the ballot must contain the following~~  
16 ~~instruction following the other required instructions: "Check your~~  
17 ~~ballot after voting to make sure that the holes are actually punched~~  
18 ~~through."~~]

19 (c) [~~(e)~~] The electronic system ballot must contain  
20 instructions for casting a write-in vote. The secretary of state  
21 shall prescribe the wording of the instructions.

22 (d) [~~(f)~~] The electronic system ballot for an election in  
23 which straight-party voting is allowed must contain the instruction  
24 prescribed by Section 52.071(b) with the language relating to  
25 placing an "X" in the party square changed as appropriate to  
26 accommodate the method by which the voter indicates a vote.

27 [~~(g) The instructions required by this section may be placed~~]

1 ~~on the punch-card ballot label instead of on the punch-card~~  
2 ~~ballot.]~~

3 SECTION 11. Section 125.001, Election Code, is amended to  
4 read as follows:

5 Sec. 125.001. ALLOCATION OF EQUIPMENT AMONG POLLING PLACES.  
6 The authority responsible for allocating election supplies among  
7 the polling places for an election shall determine the number of  
8 voting machines~~[, voting devices,]~~ or units of other voting system  
9 equipment to be installed at each polling place based on:

10 (1) the number of votes cast at the polling place in  
11 previous, similar elections;

12 (2) the number of registered voters eligible to vote  
13 at a polling place;

14 (3) the number of units of equipment available; and

15 (4) any other factors the authority determines are  
16 relevant.

17 SECTION 12. Section 125.007, Election Code, is amended to  
18 read as follows:

19 Sec. 125.007. ASSISTING VOTER. If a voter who is voting  
20 with a voting machine ~~[or voting device]~~ is physically unable to  
21 operate the machine ~~[or device]~~, the voter is entitled to  
22 assistance under the applicable provisions for assisting voters  
23 using regular paper ballots.

24 SECTION 13. Section 125.061(a), Election Code, is amended  
25 to read as follows:

26 (a) Before opening a polling place for voting on election  
27 day, the presiding judge shall inspect ~~[each voting device and]~~ any



1 ~~[other]~~ electronic voting system equipment installed at the polling  
2 place to determine whether it is installed and functioning  
3 properly.

4 SECTION 14. Section 127.1301, Election Code, is amended to  
5 read as follows:

6 Sec. 127.1301. TALLYING, TABULATING, AND REPORTING  
7 ~~[PUNCH-CARD-OR]~~ CENTRALLY COUNTED OPTICAL SCAN BALLOT UNDERVOTES  
8 AND OVERVOTES. In an election using ~~[punch-card-or]~~ centrally  
9 counted optical scan ballots, the undervotes and overvotes on those  
10 ballots shall be tallied, tabulated, and reported by race and by  
11 election precinct in the form and manner prescribed by the  
12 secretary of state.

13 SECTION 15. Section 212.112(a), Election Code, is amended  
14 to read as follows:

15 (a) Subject to Subsection (d), the amount of the recount  
16 deposit is determined by the number of precincts for which a recount  
17 is requested in the document that the deposit accompanies, in  
18 accordance with the following schedule:

19 (1) five times the maximum hourly rate of pay for  
20 election judges, for a precinct in which:

21 (A) regular paper ballots were used;

22 (B) electronic voting system ballots, other than  
23 ~~[punch-card-ballots-or]~~ printed images of ballots cast using direct  
24 recording electronic voting machines, are to be recounted manually;  
25 or

26 (C) both write-in votes and voting system votes  
27 are to be recounted;

(2) 10 times the maximum hourly rate of pay for election judges, for a precinct in which[+]

~~[(A) punch-card ballots are to be recounted manually, or~~

~~[(B)]~~ printed images of ballots cast using direct recording electronic voting machines are to be recounted manually;

(3) three times the maximum hourly rate of pay for election judges, for a precinct in which ballots are to be recounted by automatic tabulating equipment and no write-in votes are to be recounted; and

(4) two times the maximum hourly rate of pay for election judges, for a precinct in which:

(A) voting machines were used and no write-in votes are to be recounted; or

(B) only the write-in votes cast in connection with a voting system are to be recounted.

SECTION 16. Section 214.002(b), Election Code, is amended to read as follows:

(b) The count shall be made, and the correctness of the tally lists shall be certified, in the same manner as an original count of regular paper ballots, except that[+]

~~[(1)] only two tally lists are prepared[, and~~

~~[(2) Section 127.130(d) applies to a count of punch-card ballots].~~

SECTION 17. Section 221.008, Election Code, is amended to read as follows:

Sec. 221.008. EXAMINATION OF SECURED BALLOTS AND EQUIPMENT.

1 A tribunal hearing an election contest may cause secured ballot  
2 boxes, voting machines, [~~voting devices,~~] or other equipment used  
3 in the election to be unsecured to determine the correct vote count  
4 or any other fact that the tribunal considers pertinent to a fair  
5 and just disposition of the contest.

6 SECTION 18. Section 272.005(b), Election Code, is amended  
7 to read as follows:

8 (b) Except as provided by Section 272.006, ballots [~~and~~  
9 ~~voting system ballot labels~~] must be printed with all ballot  
10 instructions, office titles, column headings, proposition  
11 headings, and propositions appearing in English and Spanish.

12 SECTION 19. Section 272.006(a), Election Code, is amended  
13 to read as follows:

14 (a) In an election precinct in which use of bilingual  
15 election materials is required, bilingual printing of the ballot  
16 [~~or voting system ballot label~~] is not required if a Spanish  
17 translation of the ballot is posted in each voting station and a  
18 statement in Spanish is placed on the ballot [~~or ballot label~~]  
19 informing the voter that the translation is posted in the station.

20 SECTION 20. Section 272.007(c), Election Code, is amended  
21 to read as follows:

22 (c) The authority responsible for having the official  
23 ballot prepared for an election other than a primary election or an  
24 election ordered by the governor shall prepare the Spanish  
25 translation of the contents of the ballot [~~or voting system ballot~~  
26 ~~label~~].

27 SECTION 21. The following provisions of the Election Code

1 are repealed:

2 (1) Sections 123.001(d), 123.0331, 124.061,  
3 125.061(c), and 127.130(d) and (e);

4 (2) Subchapter E, Chapter 87;

5 (3) Subchapter B, Chapter 124;

6 (4) Subchapter B, Chapter 125;

7 (5) Chapter 126;

8 (6) Subchapter G, Chapter 127; and

9 (7) Subchapter B, Chapter 214.

10 SECTION 22. This Act takes effect January 1, 2006.