

By: Denny

H.B. No. 2309

A BILL TO BE ENTITLED

AN ACT

relating to certain election processes and procedures.

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

ARTICLE 1. GENERAL CHANGES IN ELECTION LAW

SECTION 1.01. Section 2.051, Election Code, is amended to read as follows:

Sec. 2.051. APPLICABILITY OF SUBCHAPTER. (a) Except as provided by Sections 2.055 and 2.056, this subchapter applies only to an election for officers of a political subdivision other than a county in which write-in votes may be counted only for names appearing on a list of write-in candidates and in which:

(1) each candidate for an office that [~~whose name~~] is to appear on the ballot is unopposed, except as provided by Subsection (b); and

(2) no proposition is to appear on the ballot.

(b) In the case of an election in which any members of the political subdivision's governing body are elected from territorial units such as single-member districts, this subchapter applies to the election in a particular territorial unit if each candidate for an office that [~~whose name~~] is to appear on the ballot in that territorial unit is unopposed and no at-large proposition or opposed at-large race is to appear on the ballot. This subchapter applies to an unopposed at-large race in such an election regardless of whether an opposed race is to appear on the

1 ballot in a particular territorial unit.

2 SECTION 1.02. Section 2.052(a), Election Code, is amended  
3 to read as follows:

4 (a) The authority responsible for having the official  
5 ballot prepared shall certify in writing that a candidate is  
6 unopposed for election to an office if, were the election held, only  
7 the votes cast for that candidate in the election for that office  
8 may be counted[-

9 [(1) ~~only one candidate's name is to be placed on the~~  
10 ~~ballot for that office under Section 52.003, and~~

11 [(2) ~~no candidate's name is to be placed on a list of~~  
12 ~~write-in candidates for that office under applicable law].~~

13 SECTION 1.03. Section 2.055(a), Election Code, is amended  
14 to read as follows:

15 (a) The secretary of state may declare an unopposed  
16 candidate elected to fill a vacancy in the legislature if:

17 (1) each candidate for an office that [~~whose name~~] is  
18 to appear on the ballot is unopposed; and

19 (2) no proposition is to appear on the ballot [~~, and~~

20 [(3) ~~no candidate's name is to be placed on a list of~~  
21 ~~write-in candidates for that office under Subchapter D, Chapter~~  
22 ~~146].~~

23 SECTION 1.04. Section 2.056(c), Election Code, is amended  
24 to read as follows:

25 (c) A certifying authority may declare a candidate elected  
26 to an office of the state or county government if, were the election  
27 held, only the votes cast for that candidate in the election for

1 that office may be counted~~[-~~

2 ~~[(1) the candidate is the only person whose name is to~~  
3 ~~appear on the ballot for that office; and~~

4 ~~[(2) no candidate's name is to be placed on a list of~~  
5 ~~write-in candidates for that office under Subchapter B, Chapter~~  
6 ~~146].~~

7 SECTION 1.05. Chapter 4, Election Code, is amended by  
8 adding Section 4.008 to read as follows:

9 Sec. 4.008. NOTICE TO COUNTY CLERK. The governing body of a  
10 political subdivision, other than a county, that orders an election  
11 shall deliver notice of the election to the county clerk of each  
12 county in which the political subdivision is located not later than  
13 the 60th day before election day.

14 SECTION 1.06. Section 11.001, Election Code, is amended to  
15 read as follows:

16 Sec. 11.001. ELIGIBILITY TO VOTE. (a) Except as otherwise  
17 provided by law, to be eligible to vote in an election in this  
18 state, a person must:

19 (1) be a qualified voter as defined by Section 11.002  
20 on the day the person offers to vote;

21 (2) be a resident of the territory covered by the  
22 election for the office or measure on which the person desires to  
23 vote; and

24 (3) satisfy all other requirements for voting  
25 prescribed by law for the particular election.

26 (b) For a person who resides on property located in more  
27 than one territory described by Subsection (a)(2), the person shall

1 choose in which territory the residence of the person is located.

2 SECTION 1.07. Section 16.0921(c), Election Code, is amended  
3 to read as follows:

4 (c) The registrar may not deliver a confirmation notice  
5 resulting from a sworn statement filed after the 75th day before the  
6 date of the general election for state and county officers until  
7 after the date of that election. This subsection does not apply to  
8 a person who submits a registration application [~~registers~~] after  
9 the 75th day and prior to the 30th day before the general election  
10 for state and county officers.

11 SECTION 1.08. Effective January 1, 2006, Section 19.002(d),  
12 Election Code, is amended to read as follows:

13 (d) The comptroller may not issue a warrant if on June 1 of  
14 the year in which the warrant is to be issued the most recent notice  
15 received by the comptroller from the secretary of state under  
16 Section 18.065 indicates that the registrar is not in substantial  
17 compliance with Section 15.083 [~~14.025~~], 16.032, 18.042, or 18.065  
18 [~~18.063~~] or with rules implementing the registration service  
19 program.

20 SECTION 1.09. Section 31.0021(a), Election Code, is amended  
21 to read as follows:

22 (a) On forms designed and furnished by the secretary of  
23 state for an application for a place on the ballot [~~or a designation~~  
24 ~~of a campaign treasurer~~], the secretary shall include a brief  
25 summary of:

26 (1) the nepotism prohibition imposed by Chapter 573,  
27 Government Code; and

1           (2) a list of the specific kinds of relatives that are  
2 included within the prohibited degrees of relationship prescribed  
3 by Chapter 573, Government Code.

4           SECTION 1.10. Section 31.092, Election Code, is amended by  
5 adding Subsection (d) to read as follows:

6           (d) In a contract authorized by Subsection (b), the county  
7 election officer may not prevent the county chair or the chair's  
8 designee from supervising the conduct of the primary election,  
9 including the tabulation of results, as required by Chapter 172.

10          SECTION 1.11. (a) Section 42.006(a), Election Code, is  
11 amended to read as follows:

12          (a) Except as otherwise provided by this section, a county  
13 election precinct must contain at least 100 but not more than 5,000  
14 [~~2,000~~] registered voters.

15          (b) Section 42.006(d), Election Code, is repealed.

16          SECTION 1.12. Section 51.005(c), Election Code, is amended  
17 to read as follows:

18          (c) The secretary of state shall prescribe procedures for  
19 determining the number of provisional ballots [~~ballot stubs~~] to be  
20 provided.

21          SECTION 1.13. Subchapter B, Chapter 65, Election Code, is  
22 amended by adding Section 65.060 to read as follows:

23          Sec. 65.060. DISCLOSURE OF SOCIAL SECURITY, DRIVER'S  
24 LICENSE, OR PERSONAL IDENTIFICATION NUMBER ON PROVISIONAL BALLOT  
25 AFFIDAVIT. A social security number, Texas driver's license  
26 number, or number of a personal identification card issued by the  
27 Department of Public Safety furnished on a provisional ballot

1 affidavit is confidential and does not constitute public  
2 information for purposes of Chapter 552, Government Code. The  
3 general custodian of election records shall ensure that a social  
4 security number, Texas driver's license number, or number of a  
5 personal identification card issued by the Department of Public  
6 Safety is excluded from disclosure.

7 SECTION 1.14. Section 67.004, Election Code, is amended by  
8 adding Subsection (b-1) to read as follows:

9 (b-1) The tabulation in Subsection (b) must also include for  
10 each precinct the total number of voters who cast a ballot for a  
11 candidate or for or against a measure in the election. The  
12 secretary of state shall prescribe any procedures necessary to  
13 implement this subsection.

14 SECTION 1.15. (a) Sections 67.017(a), (b), and (c),  
15 Election Code, are amended to read as follows:

16 (a) After each election for a statewide office or the office  
17 of United States representative, state senator, or state  
18 representative, the county clerk shall prepare a report of the  
19 number of votes, including early voting votes, received in each  
20 county election precinct for each candidate for each of those  
21 offices. In a presidential election year, the report must include  
22 the number of votes received in each precinct for each set of  
23 candidates for president and vice-president of the United States.  
24 For any other election, the presiding officer of the canvassing  
25 authority shall prepare a report of the precinct results as  
26 contained in the election register.

27 (b) The county clerk or presiding officer shall deliver the

1 report to the secretary of state not later than the 30th day after  
2 election day in an electronic format prescribed by the secretary of  
3 state.

4 (c) The report may be:

5 (1) an electronic [~~a transcribed or photographic~~] copy  
6 of the precinct returns;

7 (2) an electronic [~~a transcribed or photographic~~] copy  
8 of the tabulation prepared by the local canvassing authority; or

9 (3) in any other electronic form approved by the  
10 secretary of state.

11 (b) The changes in law made by this section apply only to an  
12 election held on or after January 1, 2006.

13 (c) Not later than January 1, 2006, the secretary of state  
14 shall prescribe an electronic format on which a county clerk or a  
15 presiding officer of a canvassing authority shall submit the report  
16 required under Section 67.017, Election Code, as amended by this  
17 section.

18 SECTION 1.16. (a) Sections 68.051(a) and (b), Election  
19 Code, are amended to read as follows:

20 (a) Not later than January [~~February~~] 1 of each  
21 even-numbered [~~odd-numbered~~] year, the lieutenant governor,  
22 speaker of the house of representatives, and secretary of state  
23 shall each appoint six persons to serve on an elections advisory  
24 committee in connection with the tabulation and reporting of  
25 election results under this chapter.

26 (b) Each member of the committee serves a two-year term  
27 beginning on January [~~February~~] 1 of even-numbered [~~odd-numbered~~]

1 years.

2 (b) The term of an appointed member of the elections  
3 advisory committee serving on the effective date of this section  
4 ends on December 31, 2005.

5 SECTION 1.17. Section 85.005, Election Code, is amended by  
6 adding Subsection (d) to read as follows:

7 (d) In an election ordered by a city, early voting by  
8 personal appearance at the main early voting polling place shall be  
9 conducted for at least 12 hours:

10 (1) on one weekday, if the early voting period  
11 consists of less than six weekdays; or

12 (2) on two weekdays, if the early voting period  
13 consists of six or more weekdays.

14 SECTION 1.18. Section 86.007(f), Election Code, is amended  
15 to read as follows:

16 (f) If the envelope does not bear the cancellation mark or  
17 receipt mark as required by Subsection (e)(3), a delivery under  
18 Subsection (d)(1) is presumed to be timely if the other  
19 requirements under this section are met. Section 1.006 does not  
20 apply to Subsection (d)(3) [~~(d)(3)(A)~~].

21 SECTION 1.19. Section 87.041(e), Election Code, is amended  
22 to read as follows:

23 (e) In making the determination under Subsection (b)(2),  
24 the board may also compare the signatures with the signature on the  
25 voter's registration application to confirm that the signatures are  
26 those of the same person [~~match~~] but may not use the registration  
27 application signature to determine that the signatures are not



1 those of the same person [~~do not match~~].

2 SECTION 1.20. Section 87.042(c), Election Code, is amended  
3 to read as follows:

4 (c) The ballot envelope must [~~may~~] be placed in a separate  
5 container if:

6 (1) the ballots are to be counted at a central counting  
7 station; or

8 (2) the procedure for counting the early voting votes  
9 cast by personal appearance is different from that for counting the  
10 votes cast by mail.

11 SECTION 1.21. Section 101.004, Election Code, is amended by  
12 amending Subsections (i) and (k) and adding Subsection (l) to read  
13 as follows:

14 (i) Except as provided by Subsection (l), for [~~For~~] purposes  
15 of determining the date a federal postcard application is submitted  
16 to the early voting clerk, an application is considered to be  
17 submitted on the date it is placed and properly addressed in the  
18 United States mail. The date indicated by the post office  
19 cancellation mark is considered to be the date the application was  
20 placed in the mail unless proven otherwise. For purposes of an  
21 application made under Subsection (e):

22 (1) an application that does not contain a  
23 cancellation mark is considered to be timely if it is received by  
24 the early voting clerk on or before the 22nd day before election  
25 day; and

26 (2) if the 30th day before the date of an election is a  
27 Saturday, Sunday, or legal state or national holiday, an

1 application is considered to be timely if it is submitted to the  
2 early voting clerk on or before the next regular business day.

3 (k) If the applicant submits the missing information before  
4 the time prescribed by Subsection (e)(1), the applicant is entitled  
5 to receive a full ballot to be voted by mail under this chapter. If  
6 the applicant submits the missing information after the time  
7 prescribed by Subsection (e)(1), the applicant is entitled to  
8 receive a full ballot to be voted by mail for the next election that  
9 occurs:

10 (1) in the same calendar year; and

11 (2) after the 30th day [~~at least 30 days~~] after the  
12 date the information is submitted.

13 (1) For purposes of determining the end of the period that  
14 an application may be submitted under Subsection (f)(1), an  
15 application is considered to be submitted at the time it is received  
16 by the early voting clerk.

17 SECTION 1.22. Section 146.0301(a), Election Code, is  
18 amended to read as follows:

19 (a) A write-in candidate may not withdraw from the election  
20 after the 57th [~~46th~~] day before election day.

21 SECTION 1.23. Section 146.083, Election Code, is amended to  
22 read as follows:

23 Sec. 146.083. FILING DEADLINE. A declaration of write-in  
24 candidacy must be filed not later than 5 p.m. on [~~of the fifth day~~  
25 ~~after~~] the date an application for a place on the ballot is required  
26 to be filed.

27 SECTION 1.24. Section 272.009(b), Election Code, is amended

1 to read as follows:

2 (b) If the number of election clerks appointed under  
3 Subsection (a) is insufficient to serve the needs of the  
4 Spanish-speaking voters in the election, the authority appointing  
5 election judges for the election [~~holding the election~~] shall  
6 appoint at least one clerk who is fluent in both English and Spanish  
7 to serve at a central location to provide assistance for  
8 Spanish-speaking voters. On a primary election day, the county  
9 chairs of each party holding a primary shall each appoint one clerk  
10 under this subsection.

11 SECTION 1.25. (a) Section 277.002(a), Election Code, is  
12 amended to read as follows:

13 (a) For a petition signature to be valid, a petition must:

14 (1) contain in addition to the signature:

15 (A) the signer's printed name;

16 (B) the signer's:

17 (i) date of birth [~~and residence address~~];

18 or

19 (ii) voter registration number and, if the  
20 territory from which signatures must be obtained is situated in  
21 more than one county, the county of registration; [~~and~~]

22 (C) the signer's residence address; and

23 (D) the date of signing; and

24 (2) comply with any other applicable requirements  
25 prescribed by law.

26 (b) The change in law made by this section applies only to a  
27 petition filed on or after the effective date of this section. A

1 petition filed before the effective date of this section is  
2 governed by the law in effect when the petition was filed, and the  
3 former law is continued in effect for that purpose.

4 ARTICLE 2. REPEAL OF OBSOLETE PROVISIONS REGARDING THE USE OF  
5 MECHANICAL VOTING MACHINES AND PUNCH-CARD BALLOTS

6 SECTION 2.01. Section 85.034(a), Election Code, is amended  
7 to read as follows:

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

14 SECTION 2.02. Section 104.001, Election Code, is amended to  
15 read as follows:

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

23 SECTION 2.03. Section 111.005(c), Election Code, is amended  
24 to read as follows:

25 (c) If an electronic system ballot is used, the restricted  
26 ballot shall be prepared by marking[~~, punching,~~] or otherwise  
27 identifying an official early voting ballot so that votes on

1 offices and propositions stating measures on which the voter is not  
2 entitled to vote may not be counted.

3 SECTION 2.04. Section 121.003, Election Code, is amended to  
4 read as follows:

5 Sec. 121.003. DEFINITIONS. In this title:

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

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

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

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

24 [~~(5) "Voting device" means an apparatus that is~~  
25 ~~designed for use with punch-card ballots, that holds the punch-card~~  
26 ~~ballot label, and that enables a voter to position the ballot for~~  
27 ~~voting.~~

1           ~~[(6)]~~ "Voting system equipment" means any kind of  
2 mechanical, electromechanical, or electronic apparatus for use in a  
3 voting system.

4           (5) ~~[(7)]~~ "Automatic tabulating equipment" means  
5 equipment, other than a voting machine, that compiles vote totals  
6 by ballot sorting, ballot reading, ballot scanning, or electronic  
7 data processing.

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

12           (7) ~~[(9)]~~ "Protective counter" means a registering  
13 device that permanently records the cumulative number of times that  
14 a voting machine has been operated and that is installed in the  
15 machine in a way that prevents resetting the device.

16           (8) ~~[(10)]~~ "Registering counter" means a registering  
17 device on a voting machine that records the votes cast for a  
18 particular candidate or for or against a particular measure.

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

23           ~~[(12)] "Punch-card ballot label" means the paper or~~  
24 ~~other material listing the candidates and propositions that is~~  
25 ~~designed for use with punch-card ballots to enable voters to make~~  
26 ~~their choices.~~

27           ~~[(13)] "Voting system ballot label" means a punch-card~~

1 ~~ballot label or a mechanical machine ballot label.]~~

2           (9) [~~(14)~~] "Electronic system ballot" means a ballot  
3 designed for use with an electronic voting system.

4           (10) [~~(15)~~] "Punch-card ballot" means an electronic  
5 system ballot in the form of a tabulating card.

6           (11) [~~(16)~~] "Voting system ballot" means a ballot  
7 designed for use with a voting system.

8           (12) [~~(17)~~] "Direct recording electronic voting  
9 machine" or "DRE" means a voting machine that is designed to allow a  
10 direct vote on the machine by the manual touch of a screen, monitor,  
11 or other device and that records the individual votes and vote  
12 totals electronically.

13           SECTION 2.05. Section 122.033, Election Code, is amended to  
14 read as follows:

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

18           (1) a security system capable of preventing operation  
19 of the machine;

20           (2) registering counters that can be secured against  
21 access;

22           (3) a public counter; and

23           (4) a protective counter.

24           ~~[(b) The security system for a mechanical voting machine must  
25 be a lock and key system.]~~

26           SECTION 2.06. Section 123.033(e), Election Code, is amended  
27 to read as follows:

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

4 (1) [~~\$16 for each mechanical voting machine,~~  
5 [~~2~~] \$5 for each unit of electronic voting system  
6 equipment installed at a polling place; and

7 (2) [~~3~~] \$5 for each unit of other equipment not  
8 specified by this subsection.

9 SECTION 2.07. Section 124.001, Election Code, is amended to  
10 read as follows:

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

15 SECTION 2.08. Section 124.002, Election Code, is amended to  
16 read as follows:

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

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

23 (2) by listing the office titles in a vertical column  
24 in the same manner as for a regular paper ballot on which a party  
25 nominee does not appear, except that the nominees' party alignments  
26 shall be indicated next to their names.

27 (b) The order in which party nominees listed by office title



1 appear on a voting system ballot [~~or ballot label~~] is determined in  
2 accordance with the same priorities and in the same manner as for  
3 party nominees listed in party columns, with the changes  
4 appropriate to the circumstances.

5 SECTION 2.09. Sections 124.003(a), (c), and (d), Election  
6 Code, are amended to read as follows:

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

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

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

18 SECTION 2.10. Section 124.063, Election Code, is amended to  
19 read as follows:

20 Sec. 124.063. INSTRUCTIONS REQUIRED ON BALLOT. (a) An  
21 electronic system ballot on which a voter indicates a vote by making  
22 a mark on [~~punching a hole in~~] the ballot must contain the following  
23 instruction if candidates are to be voted on: "Vote for the  
24 candidate of your choice in each race by making a mark [~~punch hole~~]  
25 in the space provided adjacent to the name of that candidate." If a  
26 proposition appears on the ballot, the ballot must contain the  
27 following instruction: "Make a mark [~~punch hole~~] in the space

1 provided beside the statement indicating the way you desire to  
2 vote."

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

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

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

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

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

24 ~~[(g) The instructions required by this section may be placed~~  
25 ~~on the punch-card ballot label instead of on the punch-card~~  
26 ~~ballot.]~~

27 SECTION 2.11. Section 125.001, Election Code, is amended to

1 read as follows:

2 Sec. 125.001. ALLOCATION OF EQUIPMENT AMONG POLLING PLACES.

3 The authority responsible for allocating election supplies among  
4 the polling places for an election shall determine the number of  
5 voting machines~~[, voting devices,]~~ or units of other voting system  
6 equipment to be installed at each polling place based on:

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

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

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

12 (4) any other factors the authority determines are  
13 relevant.

14 SECTION 2.12. Section 125.007, Election Code, is amended to  
15 read as follows:

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

21 SECTION 2.13. Section 125.061(a), Election Code, is amended  
22 to read as follows:

23 (a) Before opening a polling place for voting on election  
24 day, the presiding judge shall inspect ~~[each voting device and]~~ any  
25 ~~[other]~~ electronic voting system equipment installed at the polling  
26 place to determine whether it is installed and functioning  
27 properly.

1 SECTION 2.14. Section 127.1301, Election Code, is amended  
2 to read as follows:

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

10 SECTION 2.15. Section 212.112(a), Election Code, is amended  
11 to read as follows:

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

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

18 (A) regular paper ballots were used;

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

22 or

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

25 (2) 10 times the maximum hourly rate of pay for  
26 election judges, for a precinct in which[+]

27 [~~(A) punch-card ballots are to be recounted~~]

1 ~~manually, or~~

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

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

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

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

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

14 SECTION 2.16. Section 214.002(b), Election Code, is amended  
15 to read as follows:

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

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

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

22 SECTION 2.17. Section 221.008, Election Code, is amended to  
23 read as follows:

24 Sec. 221.008. EXAMINATION OF SECURED BALLOTS AND EQUIPMENT.

25 A tribunal hearing an election contest may cause secured ballot  
26 boxes, voting machines, [~~voting devices,~~] or other equipment used  
27 in the election to be unsecured to determine the correct vote count

1 or any other fact that the tribunal considers pertinent to a fair  
2 and just disposition of the contest.

3 SECTION 2.18. Section 272.005(b), Election Code, is amended  
4 to read as follows:

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

9 SECTION 2.19. Section 272.006(a), Election Code, is amended  
10 to read as follows:

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

17 SECTION 2.20. Section 272.007(c), Election Code, is amended  
18 to read as follows:

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

24 SECTION 2.21. The following provisions of the Election Code  
25 are repealed:

26 (1) Sections 123.001(d), 123.0331, 124.061,  
27 125.061(c), and 127.130(d) and (e);

- 1           (2) Subchapter E, Chapter 87;
- 2           (3) Subchapter B, Chapter 124;
- 3           (4) Subchapter B, Chapter 125;
- 4           (5) Chapter 126;
- 5           (6) Subchapter G, Chapter 127; and
- 6           (7) Subchapter B, Chapter 214.

7                           ARTICLE 3. EFFECTIVE DATE

8           SECTION 3.01. (a) Except as otherwise provided by this Act,  
9 this Act takes effect September 1, 2005.

10           (b) Article 2 of this Act takes effect January 1, 2006.

11           (c) A change in law made by this Act that affects the holding  
12 of an election applies only to an election ordered on or after the  
13 effective date of the change.