

1-1 By: Denny (Senate Sponsor - Jackson) H.B. No. 2309  
1-2 (In the Senate - Received from the House May 16, 2005;  
1-3 May 17, 2005, read first time and referred to Committee on State  
1-4 Affairs; May 20, 2005, reported favorably, as amended, by the  
1-5 following vote: Yeas 7, Nays 0; May 20, 2005, sent to printer.)

1-6 COMMITTEE AMENDMENT NO. 1 By: Jackson

1-7 Amend H.B. 2309 by inserting the following appropriately numbered  
1-8 sections of the bill and by renumbering subsequent sections of the  
1-9 bill accordingly:

1-10 SECTION \_\_\_\_\_. Section 41.001(a), Election Code, as amended  
1-11 by Section 1, Chapter 1, Acts of the 78th Legislature, 3rd Called  
1-12 Session, 2003, is amended to read as follows:

1-13 (a) Except as otherwise provided by this subchapter, each  
1-14 general or special election in this state shall be held on one of  
1-15 the following dates:

- 1-16 (1) the first Saturday in February;
- 1-17 (2) the second [~~first~~] Saturday in May;
- 1-18 (3) the second Saturday in September; or
- 1-19 (4) the first Tuesday after the first Monday in  
1-20 November.

1-21 SECTION \_\_\_\_\_. Section 67.003, Election Code, is amended to  
1-22 read as follows:

1-23 Sec. 67.003. TIME FOR LOCAL CANVASS. (a) Except as  
1-24 provided by Subsection (b), each [~~Each~~] local canvassing authority  
1-25 shall convene to conduct the local canvass at the time set by the  
1-26 canvassing authority's presiding officer not earlier than the  
1-27 eighth day or later than the 11th day after election day.

1-28 (b) For an election held on the uniform election date in  
1-29 May, the local canvass must occur not later than the 11th day after  
1-30 election day and not earlier than the later of:

- 1-31 (1) the third day after election day;
- 1-32 (2) the date on which the early voting ballot board has  
1-33 verified and counted all provisional ballots, if a provisional  
1-34 ballot has been cast in the election; or
- 1-35 (3) the date on which all timely received ballots cast  
1-36 from addresses outside of the United States are counted, if a ballot  
1-37 to be voted by mail in the election was provided to a person outside  
1-38 of the United States.

1-39 SECTION \_\_\_\_\_. Section 85.001, Election Code, is amended by  
1-40 adding Subsection (e) to read as follows:

1-41 (e) For an election held on the uniform election date in  
1-42 May, the period for early voting by personal appearance begins on  
1-43 the 12th day before election day and continues through the fourth  
1-44 day before election day.

1-45 A BILL TO BE ENTITLED  
1-46 AN ACT

1-47 relating to certain election processes and procedures.

1-48 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-49 ARTICLE 1. GENERAL CHANGES IN ELECTION LAW

1-50 SECTION 1.01. Section 2.051, Election Code, is amended to  
1-51 read as follows:

1-52 Sec. 2.051. APPLICABILITY OF SUBCHAPTER. (a) Except as  
1-53 provided by Sections 2.055 and 2.056, this subchapter applies only  
1-54 to an election for officers of a political subdivision other than a  
1-55 county in which write-in votes may be counted only for names  
1-56 appearing on a list of write-in candidates and in which:

1-57 (1) each candidate for an office that [~~whose name~~] is  
1-58 to appear on the ballot is unopposed, except as provided by  
1-59 Subsection (b); and

1-60 (2) no proposition is to appear on the ballot.

1-61 (b) In the case of an election in which any members of the  
1-62 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 ballot in a particular territorial unit.

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

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

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

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

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

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

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

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

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

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

(c) A certifying authority may declare a candidate elected to an office of the state or county government if, were the election held, only the votes cast for that candidate in the election for that office may be counted~~[+~~

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

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

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

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

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

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

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

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

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

(b) For a person who resides on property located in more than one territory described by Subsection (a)(2), the person shall choose in which territory the residence of the person is located.

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

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

3-1 the 75th day and prior to the 30th day before the general election  
3-2 for state and county officers.

3-3 SECTION 1.08. Effective January 1, 2006, Section 19.002(d),  
3-4 Election Code, is amended to read as follows:

3-5 (d) The comptroller may not issue a warrant if on June 1 of  
3-6 the year in which the warrant is to be issued the most recent notice  
3-7 received by the comptroller from the secretary of state under  
3-8 Section 18.065 indicates that the registrar is not in substantial  
3-9 compliance with Section 15.083 [~~14.025~~], 16.032, 18.042, or 18.065  
3-10 [~~18.063~~] or with rules implementing the registration service  
3-11 program.

3-12 SECTION 1.09. Section 31.0021(a), Election Code, is amended  
3-13 to read as follows:

3-14 (a) On forms designed and furnished by the secretary of  
3-15 state for an application for a place on the ballot [~~or a designation~~  
3-16 ~~of a campaign treasurer~~], the secretary shall include a brief  
3-17 summary of:

3-18 (1) the nepotism prohibition imposed by Chapter 573,  
3-19 Government Code; and

3-20 (2) a list of the specific kinds of relatives that are  
3-21 included within the prohibited degrees of relationship prescribed  
3-22 by Chapter 573, Government Code.

3-23 SECTION 1.10. Section 31.092, Election Code, is amended by  
3-24 adding Subsection (d) to read as follows:

3-25 (d) In a contract authorized by Subsection (b), the county  
3-26 election officer may not prevent the county chair or the chair's  
3-27 designee from supervising the conduct of the primary election,  
3-28 including the tabulation of results, as required by Chapter 172.

3-29 SECTION 1.11. (a) Section 42.006(a), Election Code, is  
3-30 amended to read as follows:

3-31 (a) Except as otherwise provided by this section, a county  
3-32 election precinct must contain at least 100 but not more than 5,000  
3-33 [~~2,000~~] registered voters.

3-34 (b) Section 42.006(d), Election Code, is repealed.

3-35 SECTION 1.12. Section 51.005(c), Election Code, is amended  
3-36 to read as follows:

3-37 (c) The secretary of state shall prescribe procedures for  
3-38 determining the number of provisional ballots [~~ballot stubs~~]  
3-39 to be provided.

3-40 SECTION 1.13. Subchapter B, Chapter 65, Election Code, is  
3-41 amended by adding Section 65.060 to read as follows:

3-42 Sec. 65.060. DISCLOSURE OF SOCIAL SECURITY, DRIVER'S  
3-43 LICENSE, OR PERSONAL IDENTIFICATION NUMBER ON PROVISIONAL BALLOT  
3-44 AFFIDAVIT. A social security number, Texas driver's license  
3-45 number, or number of a personal identification card issued by the  
3-46 Department of Public Safety furnished on a provisional ballot  
3-47 affidavit is confidential and does not constitute public  
3-48 information for purposes of Chapter 552, Government Code. The  
3-49 general custodian of election records shall ensure that a social  
3-50 security number, Texas driver's license number, or number of a  
3-51 personal identification card issued by the Department of Public  
3-52 Safety is excluded from disclosure.

3-53 SECTION 1.14. Section 67.004, Election Code, is amended by  
3-54 adding Subsection (b-1) to read as follows:

3-55 (b-1) The tabulation in Subsection (b) must also include for  
3-56 each precinct the total number of voters who cast a ballot for a  
3-57 candidate or for or against a measure in the election. The  
3-58 secretary of state shall prescribe any procedures necessary to  
3-59 implement this subsection.

3-60 SECTION 1.15. (a) Sections 67.017(a), (b), and (c),  
3-61 Election Code, are amended to read as follows:

3-62 (a) After each election for a statewide office or the office  
3-63 of United States representative, state senator, or state  
3-64 representative, the county clerk shall prepare a report of the  
3-65 number of votes, including early voting votes, received in each  
3-66 county election precinct for each candidate for each of those  
3-67 offices. In a presidential election year, the report must include  
3-68 the number of votes received in each precinct for each set of  
3-69 candidates for president and vice-president of the United States.

4-1 For any other election, the presiding officer of the canvassing  
 4-2 authority shall prepare a report of the precinct results as  
 4-3 contained in the election register.

4-4 (b) The county clerk or presiding officer shall deliver the  
 4-5 report to the secretary of state not later than the 30th day after  
 4-6 election day in an electronic format prescribed by the secretary of  
 4-7 state.

4-8 (c) The report may be:

4-9 (1) an electronic [~~a transcribed or photographic~~] copy  
 4-10 of the precinct returns;

4-11 (2) an electronic [~~a transcribed or photographic~~] copy  
 4-12 of the tabulation prepared by the local canvassing authority; or

4-13 (3) in any other electronic form approved by the  
 4-14 secretary of state.

4-15 (b) The changes in law made by this section apply only to an  
 4-16 election held on or after January 1, 2006.

4-17 (c) Not later than January 1, 2006, the secretary of state  
 4-18 shall prescribe an electronic format on which a county clerk or a  
 4-19 presiding officer of a canvassing authority shall submit the report  
 4-20 required under Section 67.017, Election Code, as amended by this  
 4-21 section.

4-22 SECTION 1.16. (a) Sections 68.051(a) and (b), Election  
 4-23 Code, are amended to read as follows:

4-24 (a) Not later than January [~~February~~] 1 of each  
 4-25 even-numbered [~~odd-numbered~~] year, the lieutenant governor,  
 4-26 speaker of the house of representatives, and secretary of state  
 4-27 shall each appoint six persons to serve on an elections advisory  
 4-28 committee in connection with the tabulation and reporting of  
 4-29 election results under this chapter.

4-30 (b) Each member of the committee serves a two-year term  
 4-31 beginning on January [~~February~~] 1 of even-numbered [~~odd-numbered~~]  
 4-32 years.

4-33 (b) The term of an appointed member of the elections  
 4-34 advisory committee serving on the effective date of this section  
 4-35 ends on December 31, 2005.

4-36 SECTION 1.17. Section 85.005, Election Code, is amended by  
 4-37 adding Subsection (d) to read as follows:

4-38 (d) In an election ordered by a city, early voting by  
 4-39 personal appearance at the main early voting polling place shall be  
 4-40 conducted for at least 12 hours:

4-41 (1) on one weekday, if the early voting period  
 4-42 consists of less than six weekdays; or

4-43 (2) on two weekdays, if the early voting period  
 4-44 consists of six or more weekdays.

4-45 SECTION 1.18. Section 86.007(f), Election Code, is amended  
 4-46 to read as follows:

4-47 (f) If the envelope does not bear the cancellation mark or  
 4-48 receipt mark as required by Subsection (e)(3), a delivery under  
 4-49 Subsection (d)(1) is presumed to be timely if the other  
 4-50 requirements under this section are met. Section 1.006 does not  
 4-51 apply to Subsection (d)(3) [~~(d)(3)(A)~~].

4-52 SECTION 1.19. Section 87.041(e), Election Code, is amended  
 4-53 to read as follows:

4-54 (e) In making the determination under Subsection (b)(2),  
 4-55 the board may also compare the signatures with the signature on the  
 4-56 voter's registration application to confirm that the signatures are  
 4-57 those of the same person [~~match~~] but may not use the registration  
 4-58 application signature to determine that the signatures are not  
 4-59 those of the same person [~~do not match~~].

4-60 SECTION 1.20. Section 87.042(c), Election Code, is amended  
 4-61 to read as follows:

4-62 (c) The ballot envelope must [~~may~~] be placed in a separate  
 4-63 container if:

4-64 (1) the ballots are to be counted at a central counting  
 4-65 station; or

4-66 (2) the procedure for counting the early voting votes  
 4-67 cast by personal appearance is different from that for counting the  
 4-68 votes cast by mail.

4-69 SECTION 1.21. Section 101.004, Election Code, is amended by

5-1 amending Subsections (i) and (k) and adding Subsection (l) to read  
5-2 as follows:

5-3 (i) Except as provided by Subsection (l), for [For] purposes  
5-4 of determining the date a federal postcard application is submitted  
5-5 to the early voting clerk, an application is considered to be  
5-6 submitted on the date it is placed and properly addressed in the  
5-7 United States mail. The date indicated by the post office  
5-8 cancellation mark is considered to be the date the application was  
5-9 placed in the mail unless proven otherwise. For purposes of an  
5-10 application made under Subsection (e):

5-11 (1) an application that does not contain a  
5-12 cancellation mark is considered to be timely if it is received by  
5-13 the early voting clerk on or before the 22nd day before election  
5-14 day; and

5-15 (2) if the 30th day before the date of an election is a  
5-16 Saturday, Sunday, or legal state or national holiday, an  
5-17 application is considered to be timely if it is submitted to the  
5-18 early voting clerk on or before the next regular business day.

5-19 (k) If the applicant submits the missing information before  
5-20 the time prescribed by Subsection (e)(1), the applicant is entitled  
5-21 to receive a full ballot to be voted by mail under this chapter. If  
5-22 the applicant submits the missing information after the time  
5-23 prescribed by Subsection (e)(1), the applicant is entitled to  
5-24 receive a full ballot to be voted by mail for the next election that  
5-25 occurs:

5-26 (1) in the same calendar year; and

5-27 (2) after the 30th day [~~at least 30 days~~] after the  
5-28 date the information is submitted.

5-29 (l) For purposes of determining the end of the period that  
5-30 an application may be submitted under Subsection (f)(1), an  
5-31 application is considered to be submitted at the time it is received  
5-32 by the early voting clerk.

5-33 SECTION 1.22. Section 146.0301(a), Election Code, is  
5-34 amended to read as follows:

5-35 (a) A write-in candidate may not withdraw from the election  
5-36 after the 57th [~~46th~~] day before election day.

5-37 SECTION 1.23. Section 146.083, Election Code, is amended to  
5-38 read as follows:

5-39 Sec. 146.083. FILING DEADLINE. A declaration of write-in  
5-40 candidacy must be filed not later than 5 p.m. on [~~of the fifth day~~  
5-41 ~~after~~] the date an application for a place on the ballot is required  
5-42 to be filed.

5-43 SECTION 1.24. Section 272.009(b), Election Code, is amended  
5-44 to read as follows:

5-45 (b) If the number of election clerks appointed under  
5-46 Subsection (a) is insufficient to serve the needs of the  
5-47 Spanish-speaking voters in the election, the authority appointing  
5-48 election judges for the election [~~holding the election~~] shall  
5-49 appoint at least one clerk who is fluent in both English and Spanish  
5-50 to serve at a central location to provide assistance for  
5-51 Spanish-speaking voters. On a primary election day, the county  
5-52 chairs of each party holding a primary shall each appoint one clerk  
5-53 under this subsection.

5-54 SECTION 1.25. (a) Section 277.002(a), Election Code, is  
5-55 amended to read as follows:

5-56 (a) For a petition signature to be valid, a petition must:

5-57 (1) contain in addition to the signature:

5-58 (A) the signer's printed name;

5-59 (B) the signer's:

5-60 (i) date of birth [~~and residence address~~];

5-61 or

5-62 (ii) voter registration number and, if the  
5-63 territory from which signatures must be obtained is situated in  
5-64 more than one county, the county of registration; [~~and~~]

5-65 (C) the signer's residence address; and

5-66 (D) the date of signing; and

5-67 (2) comply with any other applicable requirements  
5-68 prescribed by law.

5-69 (b) The change in law made by this section applies only to a

6-1 petition filed on or after the effective date of this section. A  
 6-2 petition filed before the effective date of this section is  
 6-3 governed by the law in effect when the petition was filed, and the  
 6-4 former law is continued in effect for that purpose.

6-5 ARTICLE 2. REPEAL OF OBSOLETE PROVISIONS REGARDING THE USE OF  
 6-6 MECHANICAL VOTING MACHINES AND PUNCH-CARD BALLOTS

6-7 SECTION 2.01. Section 85.034(a), Election Code, is amended  
 6-8 to read as follows:

6-9 (a) Early voting by personal appearance by a voter who is  
 6-10 voting outside the early voting polling place under Section 64.009  
 6-11 shall be conducted in accordance with this section if voting at the  
 6-12 early voting polling place is by voting machine [~~or voting device~~  
 6-13 ~~unless the early voting clerk chooses to transport a voting device~~  
 6-14 ~~to the voter~~].

6-15 SECTION 2.02. Section 104.001, Election Code, is amended to  
 6-16 read as follows:

6-17 Sec. 104.001. ELIGIBILITY. A qualified voter in whose  
 6-18 precinct polling place voting is conducted by voting machine [~~or~~  
 6-19 ~~voting device~~] is eligible to vote by the early voting procedure  
 6-20 provided by this chapter if the voter has a sickness or physical  
 6-21 condition that prevents the voter from voting in the regular manner  
 6-22 without personal assistance or a likelihood of injuring the voter's  
 6-23 health.

6-24 SECTION 2.03. Section 111.005(c), Election Code, is amended  
 6-25 to read as follows:

6-26 (c) If an electronic system ballot is used, the restricted  
 6-27 ballot shall be prepared by marking [~~, punching,~~] or otherwise  
 6-28 identifying an official early voting ballot so that votes on  
 6-29 offices and propositions stating measures on which the voter is not  
 6-30 entitled to vote may not be counted.

6-31 SECTION 2.04. Section 121.003, Election Code, is amended to  
 6-32 read as follows:

6-33 Sec. 121.003. DEFINITIONS. In this title:

6-34 (1) "Voting system" means a method of casting and  
 6-35 processing votes that is designed to function wholly or partly by  
 6-36 use of mechanical, electromechanical, or electronic apparatus and  
 6-37 includes the procedures for casting and processing votes and the  
 6-38 programs, operating manuals, tabulating cards, printouts, and  
 6-39 other software necessary for the system's operation.

6-40 (2) "Electronic voting system" means a voting system  
 6-41 in which the ballots are automatically counted and the results  
 6-42 automatically tabulated by use of electronically operated  
 6-43 apparatus.

6-44 (3) "Voting machine" means an apparatus on which  
 6-45 voters cast their votes, that records each vote, and that furnishes  
 6-46 a total of the number of votes cast for the candidates and for and  
 6-47 against the measures.

6-48 (4) [~~"Mechanical voting machine" means a voting~~  
 6-49 ~~machine that is designed to function by the manual operation of a~~  
 6-50 ~~lever or other device on the machine without the aid of electrical~~  
 6-51 ~~power.~~

6-52 [~~(5) "Voting device" means an apparatus that is~~  
 6-53 ~~designed for use with punch-card ballots, that holds the punch-card~~  
 6-54 ~~ballot label, and that enables a voter to position the ballot for~~  
 6-55 ~~voting.~~

6-56 [~~(6)] "Voting system equipment" means any kind of~~  
 6-57 ~~mechanical, electromechanical, or electronic apparatus for use in a~~  
 6-58 ~~voting system.~~

6-59 (5) [(7)] "Automatic tabulating equipment" means  
 6-60 equipment, other than a voting machine, that compiles vote totals  
 6-61 by ballot sorting, ballot reading, ballot scanning, or electronic  
 6-62 data processing.

6-63 (6) [(8)] "Public counter" means a registering device  
 6-64 that cumulatively records the number of voters casting votes on a  
 6-65 voting machine and that is constructed and installed on the machine  
 6-66 in a way that provides an unobstructed view of the recorded number.

6-67 (7) [(9)] "Protective counter" means a registering  
 6-68 device that permanently records the cumulative number of times that  
 6-69 a voting machine has been operated and that is installed in the

7-1 machine in a way that prevents resetting the device.

7-2 (8) [~~(10)~~] "Registering counter" means a registering  
7-3 device on a voting machine that records the votes cast for a  
7-4 particular candidate or for or against a particular measure.

7-5 [~~(11) "Mechanical machine ballot label" means the~~  
7-6 ~~cardboard or other material listing the candidates and propositions~~  
7-7 ~~that is attached to a mechanical voting machine to enable voters to~~  
7-8 ~~make their choices.~~

7-9 [~~(12) "Punch-card ballot label" means the paper or~~  
7-10 ~~other material listing the candidates and propositions that is~~  
7-11 ~~designed for use with punch-card ballots to enable voters to make~~  
7-12 ~~their choices.~~

7-13 [~~(13) "Voting system ballot label" means a punch-card~~  
7-14 ~~ballot label or a mechanical machine ballot label.]~~

7-15 (9) [~~(14)~~] "Electronic system ballot" means a ballot  
7-16 designed for use with an electronic voting system.

7-17 (10) [~~(15)~~] "Punch-card ballot" means an electronic  
7-18 system ballot in the form of a tabulating card.

7-19 (11) [~~(16)~~] "Voting system ballot" means a ballot  
7-20 designed for use with a voting system.

7-21 (12) [~~(17)~~] "Direct recording electronic voting  
7-22 machine" or "DRE" means a voting machine that is designed to allow a  
7-23 direct vote on the machine by the manual touch of a screen, monitor,  
7-24 or other device and that records the individual votes and vote  
7-25 totals electronically.

7-26 SECTION 2.05. Section 122.033, Election Code, is amended to  
7-27 read as follows:

7-28 Sec. 122.033. ADDITIONAL REQUIREMENTS FOR APPROVAL OF  
7-29 VOTING MACHINE. [~~(a)~~] In addition to other requirements for  
7-30 approval, a voting machine must be equipped with:

7-31 (1) a security system capable of preventing operation  
7-32 of the machine;

7-33 (2) registering counters that can be secured against  
7-34 access;

7-35 (3) a public counter; and

7-36 (4) a protective counter.

7-37 [~~(b) The security system for a mechanical voting machine must~~  
7-38 ~~be a lock and key system.]~~

7-39 SECTION 2.06. Section 123.033(e), Election Code, is amended  
7-40 to read as follows:

7-41 (e) The maximum amount that may be charged for leasing  
7-42 equipment to a county executive committee for a general or runoff  
7-43 primary is:

7-44 (1) [~~\$16 for each mechanical voting machine,~~

7-45 [~~(2)~~] \$5 for each unit of electronic voting system  
7-46 equipment installed at a polling place; and

7-47 (2) [~~(3)~~] \$5 for each unit of other equipment not  
7-48 specified by this subsection.

7-49 SECTION 2.07. Section 124.001, Election Code, is amended to  
7-50 read as follows:

7-51 Sec. 124.001. STRAIGHT-PARTY ARRANGEMENT. In an election  
7-52 in which voters are entitled to cast straight-party votes, the  
7-53 voting system ballot [~~and ballot label~~] shall be arranged to permit  
7-54 the voters to do so.

7-55 SECTION 2.08. Section 124.002, Election Code, is amended to  
7-56 read as follows:

7-57 Sec. 124.002. MANNER OF INDICATING PARTY ALIGNMENT. (a) In  
7-58 an election in which a candidate's name is to appear on the ballot  
7-59 as the nominee of a political party, the voting system ballot [~~and~~  
7-60 ~~ballot label, as applicable,~~] shall be arranged:

7-61 (1) in party columns in the same manner as for a  
7-62 regular paper ballot on which a party nominee appears; or

7-63 (2) by listing the office titles in a vertical column  
7-64 in the same manner as for a regular paper ballot on which a party  
7-65 nominee does not appear, except that the nominees' party alignments  
7-66 shall be indicated next to their names.

7-67 (b) The order in which party nominees listed by office title  
7-68 appear on a voting system ballot [~~or ballot label~~] is determined in  
7-69 accordance with the same priorities and in the same manner as for

8-1 party nominees listed in party columns, with the changes  
8-2 appropriate to the circumstances.

8-3 SECTION 2.09. Sections 124.003(a), (c), and (d), Election  
8-4 Code, are amended to read as follows:

8-5 (a) Any unopposed candidates may be listed separately under  
8-6 the heading "Uncontested Races" on a voting system ballot [~~or~~  
8-7 ~~ballot label~~].

8-8 (c) Candidates listed under the uncontested races heading  
8-9 may be arranged in a manner requiring voting on them as one or more  
8-10 blocs, but only if an additional ballot [~~or ballot label~~] would  
8-11 otherwise be necessary to accommodate all the candidates and  
8-12 propositions to be listed.

8-13 (d) The requirement that the ballot [~~or ballot label~~] be  
8-14 arranged to permit straight-party voting does not apply to  
8-15 candidates listed under the uncontested races heading.

8-16 SECTION 2.10. Section 124.063, Election Code, is amended to  
8-17 read as follows:

8-18 Sec. 124.063. INSTRUCTIONS REQUIRED ON BALLOT. (a) An  
8-19 electronic system ballot on which a voter indicates a vote by making  
8-20 a mark on [~~punching a hole in~~] the ballot must contain the following  
8-21 instruction if candidates are to be voted on: "Vote for the  
8-22 candidate of your choice in each race by making a mark [~~punch hole~~]  
8-23 in the space provided adjacent to the name of that candidate." If a  
8-24 proposition appears on the ballot, the ballot must contain the  
8-25 following instruction: "Make a mark [~~punch hole~~] in the space  
8-26 provided beside the statement indicating the way you desire to  
8-27 vote."

8-28 (b) [~~An electronic system ballot on which a voter indicates~~  
8-29 ~~a vote by making a mark on the ballot must comply with Subsection~~  
8-30 ~~(a), with the substitution of "mark" for "punch hole."~~

8-31 [~~(c)~~] The instructions prescribed by Subsection  
8-32 [~~Subsections~~] (a) [~~and (b)~~] shall be changed appropriately if the  
8-33 election has only one race, more than one candidate is to be elected  
8-34 in a race, or other circumstances require an alteration of the  
8-35 instructions.

8-36 (c) [~~(d)~~] ~~An electronic system ballot on which a voter~~  
8-37 ~~indicates a vote by punching a hole in the ballot must contain the~~  
8-38 ~~following instruction following the other required instructions:~~  
8-39 ~~"Check your ballot after voting to make sure that the holes are~~  
8-40 ~~actually punched through."~~

8-41 [~~(e)~~] The electronic system ballot must contain  
8-42 instructions for casting a write-in vote. The secretary of state  
8-43 shall prescribe the wording of the instructions.

8-44 (d) [~~(f)~~] The electronic system ballot for an election in  
8-45 which straight-party voting is allowed must contain the instruction  
8-46 prescribed by Section 52.071(b) with the language relating to  
8-47 placing an "X" in the party square changed as appropriate to  
8-48 accommodate the method by which the voter indicates a vote.

8-49 [~~(g)~~] ~~The instructions required by this section may be placed~~  
8-50 ~~on the punch-card ballot label instead of on the punch-card~~  
8-51 ~~ballot.]~~

8-52 SECTION 2.11. Section 125.001, Election Code, is amended to  
8-53 read as follows:

8-54 Sec. 125.001. ALLOCATION OF EQUIPMENT AMONG POLLING PLACES.  
8-55 The authority responsible for allocating election supplies among  
8-56 the polling places for an election shall determine the number of  
8-57 voting machines [~~, voting devices,~~] or units of other voting system  
8-58 equipment to be installed at each polling place based on:

8-59 (1) the number of votes cast at the polling place in  
8-60 previous, similar elections;

8-61 (2) the number of registered voters eligible to vote  
8-62 at a polling place;

8-63 (3) the number of units of equipment available; and

8-64 (4) any other factors the authority determines are  
8-65 relevant.

8-66 SECTION 2.12. Section 125.007, Election Code, is amended to  
8-67 read as follows:

8-68 Sec. 125.007. ASSISTING VOTER. If a voter who is voting  
8-69 with a voting machine [~~or voting device~~] is physically unable to



9-1 operate the machine [~~or device~~], the voter is entitled to  
 9-2 assistance under the applicable provisions for assisting voters  
 9-3 using regular paper ballots.

9-4 SECTION 2.13. Section 125.061(a), Election Code, is amended  
 9-5 to read as follows:

9-6 (a) Before opening a polling place for voting on election  
 9-7 day, the presiding judge shall inspect [~~each voting device and~~ any  
 9-8 [~~other~~] electronic voting system equipment installed at the polling  
 9-9 place to determine whether it is installed and functioning  
 9-10 properly.

9-11 SECTION 2.14. Section 127.1301, Election Code, is amended  
 9-12 to read as follows:

9-13 Sec. 127.1301. TALLYING, TABULATING, AND REPORTING  
 9-14 [~~PUNCH-CARD OR~~] CENTRALLY COUNTED OPTICAL SCAN BALLOT UNDERVOTES  
 9-15 AND OVERVOTES. In an election using [~~punch-card or~~] centrally  
 9-16 counted optical scan ballots, the undervotes and overvotes on those  
 9-17 ballots shall be tallied, tabulated, and reported by race and by  
 9-18 election precinct in the form and manner prescribed by the  
 9-19 secretary of state.

9-20 SECTION 2.15. Section 212.112(a), Election Code, is amended  
 9-21 to read as follows:

9-22 (a) Subject to Subsection (d), the amount of the recount  
 9-23 deposit is determined by the number of precincts for which a recount  
 9-24 is requested in the document that the deposit accompanies, in  
 9-25 accordance with the following schedule:

9-26 (1) five times the maximum hourly rate of pay for  
 9-27 election judges, for a precinct in which:

- 9-28 (A) regular paper ballots were used;
- 9-29 (B) electronic voting system ballots, other than  
 9-30 [~~punch-card ballots or~~] printed images of ballots cast using direct  
 9-31 recording electronic voting machines, are to be recounted manually;  
 9-32 or
- 9-33 (C) both write-in votes and voting system votes  
 9-34 are to be recounted;

9-35 (2) 10 times the maximum hourly rate of pay for  
 9-36 election judges, for a precinct in which[+  
 9-37 [~~(A) punch-card ballots are to be recounted~~  
 9-38 manually; or

9-39 [~~(B)~~] printed images of ballots cast using direct  
 9-40 recording electronic voting machines are to be recounted manually;

9-41 (3) three times the maximum hourly rate of pay for  
 9-42 election judges, for a precinct in which ballots are to be recounted  
 9-43 by automatic tabulating equipment and no write-in votes are to be  
 9-44 recounted; and

9-45 (4) two times the maximum hourly rate of pay for  
 9-46 election judges, for a precinct in which:

- 9-47 (A) voting machines were used and no write-in  
 9-48 votes are to be recounted; or
- 9-49 (B) only the write-in votes cast in connection  
 9-50 with a voting system are to be recounted.

9-51 SECTION 2.16. Section 214.002(b), Election Code, is amended  
 9-52 to read as follows:

9-53 (b) The count shall be made, and the correctness of the  
 9-54 tally lists shall be certified, in the same manner as an original  
 9-55 count of regular paper ballots, except that[+  
 9-56 [~~(1)~~] only two tally lists are prepared[+ and  
 9-57 [~~(2) Section 127.130(d) applies to a count of~~  
 9-58 punch-card ballots].

9-59 SECTION 2.17. Section 221.008, Election Code, is amended to  
 9-60 read as follows:

9-61 Sec. 221.008. EXAMINATION OF SECURED BALLOTS AND EQUIPMENT.  
 9-62 A tribunal hearing an election contest may cause secured ballot  
 9-63 boxes, voting machines, [~~voting devices~~] or other equipment used  
 9-64 in the election to be unsecured to determine the correct vote count  
 9-65 or any other fact that the tribunal considers pertinent to a fair  
 9-66 and just disposition of the contest.

9-67 SECTION 2.18. Section 272.005(b), Election Code, is amended  
 9-68 to read as follows:

9-69 (b) Except as provided by Section 272.006, ballots [~~and~~

10-1 ~~voting system ballot labels~~] must be printed with all ballot  
10-2 instructions, office titles, column headings, proposition  
10-3 headings, and propositions appearing in English and Spanish.

10-4 SECTION 2.19. Section 272.006(a), Election Code, is amended  
10-5 to read as follows:

10-6 (a) In an election precinct in which use of bilingual  
10-7 election materials is required, bilingual printing of the ballot  
10-8 [~~or voting system ballot label~~] is not required if a Spanish  
10-9 translation of the ballot is posted in each voting station and a  
10-10 statement in Spanish is placed on the ballot [~~or ballot label~~]  
10-11 informing the voter that the translation is posted in the station.

10-12 SECTION 2.20. Section 272.007(c), Election Code, is amended  
10-13 to read as follows:

10-14 (c) The authority responsible for having the official  
10-15 ballot prepared for an election other than a primary election or an  
10-16 election ordered by the governor shall prepare the Spanish  
10-17 translation of the contents of the ballot [~~or voting system ballot~~  
10-18 ~~label~~].

10-19 SECTION 2.21. The following provisions of the Election Code  
10-20 are repealed:

- 10-21 (1) Sections 123.001(d), 123.0331, 124.061,
- 10-22 125.061(c), and 127.130(d) and (e);
- 10-23 (2) Subchapter E, Chapter 87;
- 10-24 (3) Subchapter B, Chapter 124;
- 10-25 (4) Subchapter B, Chapter 125;
- 10-26 (5) Chapter 126;
- 10-27 (6) Subchapter G, Chapter 127; and
- 10-28 (7) Subchapter B, Chapter 214.

10-29 ARTICLE 3. EFFECTIVE DATE

10-30 SECTION 3.01. (a) Except as otherwise provided by this Act,  
10-31 this Act takes effect September 1, 2005.

10-32 (b) Article 2 of this Act takes effect January 1, 2006.

10-33 (c) A change in law made by this Act that affects the holding  
10-34 of an election applies only to an election ordered on or after the  
10-35 effective date of the change.

10-36 \* \* \* \* \*