

By: Corte, Baxter

H.B. No. 2339

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the provision of mail ballots to overseas voters and to
3 conforming adjustments to related dates, deadlines, and
4 procedures.

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

6 SECTION 1. Section 86.004, Election Code, is amended to
7 read as follows:

8 Sec. 86.004. TIME FOR PROVIDING BALLOT TO VOTER. (a)
9 Except as provided by Subsection (b), the [The] balloting materials
10 for voting by mail shall be mailed to a voter entitled to vote by
11 mail not later than the seventh calendar day after the later of the
12 date the clerk accepts the voter's application for a ballot to be
13 voted by mail or the date the ballots become available for mailing,
14 except that if that mailing date is earlier than the 45th day before
15 election day, the balloting materials shall be mailed not later
16 than the 38th day before election day.

17 (b) For the general election for state and county officers,
18 the balloting materials for a voter who indicates on the
19 application for a ballot to be voted by mail or the federal postcard
20 application that the voter is eligible to vote early by mail as a
21 consequence of the voter's being outside the United States shall be
22 mailed on or before the later of the 45th day before election day or
23 the seventh calendar day after the date the clerk receives the
24 application. However, if it is not possible to mail the ballots by

1 the deadline of the 45th day before election day, the clerk shall
2 notify the secretary of state within 24 hours of knowing that the
3 deadline will not be met. The secretary of state shall monitor the
4 situation and advise the clerk, who shall mail the ballots as soon
5 as possible in accordance with the secretary of state's guidelines.

6 SECTION 2. Section 3.005, Election Code, is amended by
7 amending Subsection (a) and adding Subsection (c) to read as
8 follows:

9 (a) Except as provided by Subsection (c), an [An] election
10 ordered by an authority of a political subdivision shall be ordered
11 not later than the 62nd day before election day.

12 (c) For an election to be held on the date of the general
13 election for state and county officers, the election shall be
14 ordered not later than the 70th day before election day.

15 SECTION 3. Section 143.007, Election Code, is amended by
16 adding Subsection (c) to read as follows:

17 (c) For an election to be held on the date of the general
18 election for state and county officers, the day of the filing
19 deadline is the 70th day before election day.

20 SECTION 4. Section 143.008, Election Code, is amended by
21 adding Subsection (c) to read as follows:

22 (c) This section does not apply to an election to be held on
23 the date of the general election for state and county officers.

24 SECTION 5. Section 144.005, Election Code, is amended by
25 amending Subsections (a) and (c) and adding Subsection (d) to read
26 as follows:

27 (a) Except as provided by Subsection (d), an [An]

1 application for a place on the ballot must be filed not later than 5
2 p.m. of the 62nd day before election day.

3 (c) The governing body of a political subdivision for which
4 a deadline for filing for candidacy is prescribed by a law outside
5 this code shall take appropriate action to comply with Subsections
6 ~~[Subsection]~~ (a) and (d) and to adjust any affected date, deadline,
7 or procedure to allow the same interval of time in relation to the
8 filing deadline as would be provided by application of the other
9 law. The secretary of state shall prescribe any rules necessary to
10 facilitate the implementation of this subsection.

11 (d) For an election to be held on the date of the general
12 election for state and county officers, the day of the filing
13 deadline is the 70th day before election day.

14 SECTION 6. Section 144.006, Election Code, is amended to
15 read as follows:

16 Sec. 144.006. FILING DEADLINE FOR DECLARED WRITE-IN
17 CANDIDATE. (a) Except as otherwise provided by law, a declaration
18 of write-in candidacy must be filed not later than 5 p.m. of the
19 fifth day after the date an application for a place on the ballot is
20 required to be filed in an election in which:

21 (1) the filing deadline for an application for a place
22 on the ballot is the 62nd ~~[45th]~~ day before election day; and

23 (2) write-in votes may be counted only for names
24 appearing on a list of declared write-in candidates.

25 (b) For an election to be held on the date of the general
26 election for state and county officers, the day of the filing
27 deadline is the 67th day before election day.

1 SECTION 7. Sections 145.032 and 145.035, Election Code, are
2 amended to read as follows:

3 Sec. 145.032. DEADLINE FOR WITHDRAWAL. A candidate may not
4 withdraw from the general election after the 74th [~~65th~~] day before
5 election day.

6 Sec. 145.035. WITHDRAWN, DECEASED, OR INELIGIBLE
7 CANDIDATE'S NAME OMITTED FROM BALLOT. A candidate's name shall be
8 omitted from the ballot if the candidate withdraws, dies, or is
9 declared ineligible on or before the 74th [~~65th~~] day before
10 election day.

11 SECTION 8. Section 145.037(e), Election Code, is amended to
12 read as follows:

13 (e) The certification must be delivered not later than 5
14 p.m. of the 70th [~~60th~~] day before election day.

15 SECTION 9. Section 145.038(b), Election Code, is amended to
16 read as follows:

17 (b) The state chair must deliver the certification of the
18 replacement nominee not later than 5 p.m. of the 67th [~~57th~~] day
19 before election day.

20 SECTION 10. Section 145.039, Election Code, is amended to
21 read as follows:

22 Sec. 145.039. DECEASED OR INELIGIBLE CANDIDATE'S NAME TO
23 APPEAR ON GENERAL ELECTION BALLOT. If a candidate dies or is
24 declared ineligible after the 74th [~~65th~~] day before election day,
25 the candidate's name shall be placed on the ballot.

26 SECTION 11. Sections 145.062, 145.064, and 145.065,
27 Election Code, are amended to read as follows:

1 Sec. 145.062. DEADLINE FOR WITHDRAWAL. A candidate may not
2 withdraw from the general election after the 74th [~~65th~~] day before
3 election day.

4 Sec. 145.064. WITHDRAWN, DECEASED, OR INELIGIBLE
5 CANDIDATE'S NAME OMITTED FROM BALLOT. (a) Except as provided by
6 Subsection (b), a candidate's name shall be omitted from the ballot
7 if the candidate withdraws, dies, or is declared ineligible on or
8 before the 74th [~~65th~~] day before election day.

9 (b) The name of a deceased candidate may not be omitted if:

10 (1) the decedent was the incumbent in the office for
11 which the decedent was a candidate; or

12 (2) no other candidate's name is to appear on the
13 ballot in the race in which the decedent was a candidate.

14 Sec. 145.065. DECEASED OR INELIGIBLE CANDIDATE'S NAME TO
15 APPEAR ON GENERAL ELECTION BALLOT. If a candidate dies or is
16 declared ineligible after the 74th [~~65th~~] day before election day,
17 the candidate's name shall be placed on the ballot.

18 SECTION 12. Section 145.092, Election Code, is amended by
19 adding Subsection (f) to read as follows:

20 (f) A candidate in an election for which the filing deadline
21 for an application for a place on the ballot is not later than 5 p.m.
22 of the 70th day before election day may not withdraw from the
23 election after 5 p.m. of the 67th day before election day.

24 SECTION 13. Section 145.094(a), Election Code, is amended
25 to read as follows:

26 (a) The name of a candidate shall be omitted from the ballot
27 if the candidate:

1 (1) dies before the second day before the date of the
2 deadline for filing the candidate's application for a place on the
3 ballot;

4 (2) withdraws or is declared ineligible before 5 p.m.
5 of the second day before the beginning of early voting by personal
6 appearance, in an election subject to Section 145.092(a); ~~[or]~~

7 (3) withdraws or is declared ineligible before 5 p.m.
8 of the 53rd day before election day, in an election subject to
9 Section 145.092(b); or

10 (4) withdraws or is declared ineligible before 5 p.m.
11 of the 67th day before election day, in an election subject to
12 Section 145.092(f).

13 SECTION 14. Section 145.096(a), Election Code, is amended
14 to read as follows:

15 (a) Except as provided by Subsection (b), a candidate's name
16 shall be placed on the ballot if the candidate:

17 (1) dies on or after the second day before the deadline
18 for filing the candidate's application for a place on the ballot;

19 (2) is declared ineligible after 5 p.m. of the second
20 day before the beginning of early voting by personal appearance, in
21 an election subject to Section 145.092(a); ~~[or]~~

22 (3) is declared ineligible after 5 p.m. of the 53rd day
23 before election day, in an election subject to Section 145.092(b);
24 or

25 (4) is declared ineligible after 5 p.m. of the 67th day
26 before election day, in an election subject to Section 145.092(f).

27 SECTION 15. Section 145.097, Election Code, is amended to

1 read as follows:

2 Sec. 145.097. HOME-RULE CITY CANDIDATE. Provisions
3 governing the withdrawal, death, or ineligibility of candidates for
4 city offices prescribed by a home-rule city charter supersede this
5 chapter to the extent of any conflict, except that this subchapter
6 prevails in regard to an election subject to Section 145.092(f).

7 SECTION 16. Sections 146.025(a) and (b), Election Code, are
8 amended to read as follows:

9 (a) A declaration of write-in candidacy must be filed not
10 later than 5 p.m. of the 70th [~~60th~~] day before general election
11 day, except as otherwise provided by this code. A declaration may
12 not be filed earlier than the 30th day before the date of the
13 regular filing deadline.

14 (b) If a candidate whose name is to appear on the general
15 election ballot dies or is declared ineligible after the third day
16 before the date of the filing deadline prescribed by Subsection
17 (a), a declaration of write-in candidacy for the office sought by
18 the deceased or ineligible candidate may be filed not later than 5
19 p.m. of the 67th [~~57th~~] day before election day.

20 SECTION 17. Section 146.029(c), Election Code, is amended
21 to read as follows:

22 (c) Not later than the 62nd [~~55th~~] day before election day,
23 the certifying authority shall deliver the certification to the
24 authority responsible for having the official ballot prepared in
25 each county in which the office sought by the candidate is to be
26 voted on.

27 SECTION 18. Sections 146.0301(a) and (d), Election Code,

1 are amended to read as follows:

2 (a) A write-in candidate may not withdraw from the election
3 after the 67th [~~46th~~] day before election day.

4 (d) A candidate's name shall be omitted from the list of
5 write-in candidates if the candidate withdraws on or before the
6 67th [~~46th~~] day before election day.

7 SECTION 19. Section 146.054, Election Code, is amended to
8 read as follows:

9 Sec. 146.054. FILING DEADLINE. (a) Except as provided by
10 Subsection (b), a [A] declaration of write-in candidacy must be
11 filed not later than 5 p.m. of the fifth day after the date an
12 application for a place on the ballot is required to be filed.

13 (b) For an election to be held on the date of the general
14 election for state and county officers, the day of the filing
15 deadline is the 67th day before election day.

16 SECTION 20. Section 161.008(b), Election Code, is amended
17 to read as follows:

18 (b) Not later than the 62nd [~~55th~~] day before general
19 election day, the secretary of state shall deliver the
20 certification to the authority responsible for having the official
21 general election ballot prepared in each county in which the
22 candidate's name is to appear on the ballot.

23 SECTION 21. Section 192.031, Election Code, is amended to
24 read as follows:

25 Sec. 192.031. PARTY CANDIDATE'S ENTITLEMENT TO PLACE ON
26 BALLOT. A political party is entitled to have the names of its
27 nominees for president and vice-president of the United States

1 placed on the ballot in a presidential general election if:

2 (1) the nominees possess the qualifications for those
3 offices prescribed by federal law;

4 (2) before 5 p.m. of the 70th [~~60th~~] day before
5 presidential election day, the party's state chair signs and
6 delivers to the secretary of state a written certification of:

7 (A) the names of the party's nominees for
8 president and vice-president; and

9 (B) the names and residence addresses of
10 presidential elector candidates nominated by the party, in a number
11 equal to the number of presidential electors that federal law
12 allocates to this state; and

13 (3) the party is:

14 (A) required or authorized by Subchapter A of
15 Chapter 172 to make its nominations by primary election; or

16 (B) entitled to have the names of its nominees
17 placed on the general election ballot under Chapter 181.

18 SECTION 22. Section 192.033(b), Election Code, is amended
19 to read as follows:

20 (b) Not later than the 62nd [~~55th~~] day before presidential
21 election day, the secretary of state shall deliver the
22 certification to the authority responsible for having the official
23 ballot prepared in each county.

24 SECTION 23. Section 192.062(a), Election Code, is amended
25 to read as follows:

26 (a) The secretary of state shall certify in writing for
27 placement on the ballot the name of a political party's replacement

1 nominee for president or vice-president of the United States if:

2 (1) the original nominee withdraws, dies, or is
3 declared ineligible on or before the 74th [~~65th~~] day before
4 presidential election day; and

5 (2) the party's state chair delivers certification of
6 the replacement nominee's name, signed by the state chair, to the
7 secretary of state not later than 5 p.m. of the 70th [~~60th~~] day
8 before presidential election day.

9 SECTION 24. Section 192.063(a), Election Code, is amended
10 to read as follows:

11 (a) The name of an independent presidential candidate and
12 the name of the candidate's running mate shall be omitted from the
13 ballot if the presidential candidate withdraws, dies, or is
14 declared ineligible on or before the 74th [~~65th~~] day before
15 presidential election day.

16 SECTION 25. Section 192.064(a), Election Code, is amended
17 to read as follows:

18 (a) The secretary of state shall certify in writing for
19 placement on the ballot the name of a replacement vice-presidential
20 running mate for an independent candidate for president of the
21 United States if:

22 (1) the original running mate withdraws, dies, or is
23 declared ineligible on or before the 74th [~~65th~~] day before
24 presidential election day; and

25 (2) the independent presidential candidate delivers
26 certification of the replacement running mate's name, signed by the
27 presidential candidate, to the secretary of state not later than 5

1 p.m. of the 70th [~~60th~~] day before presidential election day.

2 SECTION 26. Section 201.051, Election Code, is amended to
3 read as follows:

4 Sec. 201.051. TIME FOR ORDERING ELECTION. (a) If a vacancy
5 in office is to be filled by special election, the election shall be
6 ordered as soon as practicable after the vacancy occurs, subject to
7 Subsection (b).

8 (b) For a vacancy to be filled by a special election to be
9 held on the date of the general election for state and county
10 officers, the election shall be ordered not later than the 70th day
11 before election day.

12 SECTION 27. Section 201.054, Election Code, is amended by
13 amending Subsection (a) and adding Subsection (f) to read as
14 follows:

15 (a) Except as provided by Subsection (f), a [~~A~~] candidate's
16 application for a place on a special election ballot must be filed
17 not later than:

18 (1) 5 p.m. of the 31st day before election day, if
19 election day is on or after the 36th day after the date the election
20 is ordered; or

21 (2) 5 p.m. of a day fixed by the authority ordering the
22 election, which day must be not earlier than the fifth day after the
23 date the election is ordered and not later than the 20th day before
24 election day, if election day is before the 36th day after the date
25 the election is ordered.

26 (f) For a special election to be held on the date of the
27 general election for state and county officers, the day of the

1 filing deadline is the 67th day before election day.

2 SECTION 28. Section 202.002, Election Code, is amended to
3 read as follows:

4 Sec. 202.002. VACANCY FILLED AT GENERAL ELECTION. (a) If a
5 vacancy occurs on or before the 74th [~~65th~~] day before the general
6 election for state and county officers held in the next-to-last
7 even-numbered year of a term of office, the remainder of the
8 unexpired term shall be filled at the next general election for
9 state and county officers, as provided by this chapter.

10 (b) If a vacancy occurs after the 74th [~~65th~~] day before a
11 general election day, an election for the unexpired term may not be
12 held at that general election. The appointment to fill the vacancy
13 continues until the next succeeding general election and until a
14 successor has been elected and has qualified for the office.

15 SECTION 29. Section 202.007(a), Election Code, is amended
16 to read as follows:

17 (a) If a vacancy occurs after runoff primary election day,
18 an independent candidate for the unexpired term must file the
19 application for a place on the ballot not later than 5 p.m. of the
20 30th day after the date the vacancy occurs or 5 p.m. of the 70th
21 [~~60th~~] day before general election day, whichever is earlier.

22 SECTION 30. Section 11.055, Education Code, is amended by
23 amending Subsection (a) and adding Subsection (c) to read as
24 follows:

25 (a) Except as provided by Subsection (c), an [~~An~~]
26 application of a candidate for a place on the ballot must be filed
27 not later than 5 p.m. of the 62nd day before the date of the

1 election. An application may not be filed earlier than the 30th day
2 before the date of the filing deadline.

3 (c) For an election to be held on the date of the general
4 election for state and county officers, the day of the filing
5 deadline is the 70th day before election day.

6 SECTION 31. Section 11.056, Education Code, is amended by
7 amending Subsection (b) and adding Subsection (e) to read as
8 follows:

9 (b) Except as provided by Subsection (e), a [A] declaration
10 of write-in candidacy must be filed not later than 5 p.m. of the
11 fifth day after the date an application for a place on the ballot is
12 required to be filed.

13 (e) For an election to be held on the date of the general
14 election for state and county officers, the day of the filing
15 deadline is the 67th day before election day.

16 SECTION 32. Section 130.0825, Education Code, is amended by
17 amending Subsection (b) and adding Subsection (e) to read as
18 follows:

19 (b) Except as provided by Subsection (e), a [A] declaration
20 of write-in candidacy must be filed not later than 5 p.m. of the
21 fifth day after the date an application for a place on the ballot is
22 required to be filed.

23 (e) For an election to be held on the date of the general
24 election for state and county officers, the day of the filing
25 deadline is the 67th day before election day.

26 SECTION 33. Section 285.131, Health and Safety Code, is
27 amended by amending Subsection (d) and adding Subsection (g) to

1 read as follows:

2 (d) Except as provided by Subsection (g), a [A] declaration
3 of write-in candidacy must be filed not later than 5 p.m. of the
4 fifth day after the date an application for a place on the ballot is
5 required to be filed.

6 (g) For an election to be held on the date of the general
7 election for state and county officers, the day of the filing
8 deadline is the 67th day before election day.

9 SECTION 34. Section 63.0945, Water Code, is amended by
10 amending Subsection (d) and adding Subsection (f) to read as
11 follows:

12 (d) Except as provided by Subsection (f), a [A] declaration
13 of write-in candidacy must be filed not later than 5 p.m. of the
14 fifth day after the date an application for a place on the ballot is
15 required to be filed.

16 (f) For an election to be held on the date of the general
17 election for state and county officers, the day of the filing
18 deadline is the 67th day before election day.

19 SECTION 35. The secretary of state shall adopt rules as
20 necessary to implement this Act, including the adjustment of any
21 affected date, deadline, or procedure.

22 SECTION 36. This Act takes effect September 1, 2005.