

1-1 By: Corte, Baxter (Senate Sponsor - Jackson) H.B. No. 2339
1-2 (In the Senate - Received from the House May 13, 2005;
1-3 May 16, 2005, read first time and referred to Committee on State
1-4 Affairs; May 21, 2005, reported favorably, as amended, by the
1-5 following vote: Yeas 7, Nays 0; May 21, 2005, sent to printer.)

1-6 COMMITTEE AMENDMENT NO. 1 By: Jackson

1-7 Amend H.B. 2339 as follows:

1-8 On page 5, lines 37-47, strike Subsection (a) and substitute the
1-9 following Subsection (a):

1-10 (a) Except as provided by Subsection (f), a [A] candidate's
1-11 application for a place on a special election ballot must be filed
1-12 not later than:

1-13 (1) 5 p.m. of the 67th day before election day, if
1-14 election day is on or after the 70th day after the date the election
1-15 is ordered;

1-16 (2) 5 p.m. of the 31st day before election day, if
1-17 election day is on or after the 36th day and before the 70th day
1-18 after the date the election is ordered; or

1-19 (3) [~~2~~] 5 p.m. of a day fixed by the authority
1-20 ordering the election, which day must be not earlier than the fifth
1-21 day after the date the election is ordered and not later than the
1-22 20th day before election day, if election day is before the 36th day
1-23 after the date the election is ordered.

1-24 A BILL TO BE ENTITLED
1-25 AN ACT

1-26 relating to the provision of mail ballots to overseas voters and to
1-27 conforming adjustments to related dates, deadlines, and
1-28 procedures.

1-29 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-30 SECTION 1. Section 86.004, Election Code, is amended to
1-31 read as follows:

1-32 Sec. 86.004. TIME FOR PROVIDING BALLOT TO VOTER. (a)
1-33 Except as provided by Subsection (b), the [The] balloting materials
1-34 for voting by mail shall be mailed to a voter entitled to vote by
1-35 mail not later than the seventh calendar day after the later of the
1-36 date the clerk accepts the voter's application for a ballot to be
1-37 voted by mail or the date the ballots become available for mailing,
1-38 except that if that mailing date is earlier than the 45th day before
1-39 election day, the balloting materials shall be mailed not later
1-40 than the 38th day before election day.

1-41 (b) For the general election for state and county officers,
1-42 the balloting materials for a voter who indicates on the
1-43 application for a ballot to be voted by mail or the federal postcard
1-44 application that the voter is eligible to vote early by mail as a
1-45 consequence of the voter's being outside the United States shall be
1-46 mailed on or before the later of the 45th day before election day or
1-47 the seventh calendar day after the date the clerk receives the
1-48 application. However, if it is not possible to mail the ballots by
1-49 the deadline of the 45th day before election day, the clerk shall
1-50 notify the secretary of state within 24 hours of knowing that the
1-51 deadline will not be met. The secretary of state shall monitor the
1-52 situation and advise the clerk, who shall mail the ballots as soon
1-53 as possible in accordance with the secretary of state's guidelines.

1-54 SECTION 2. Section 3.005, Election Code, is amended by
1-55 amending Subsection (a) and adding Subsection (c) to read as
1-56 follows:

1-57 (a) Except as provided by Subsection (c), an [An] election
1-58 ordered by an authority of a political subdivision shall be ordered
1-59 not later than the 62nd day before election day.

1-60 (c) For an election to be held on the date of the general
1-61 election for state and county officers, the election shall be
1-62 ordered not later than the 70th day before election day.

2-1 SECTION 3. Section 143.007, Election Code, is amended by
 2-2 adding Subsection (c) to read as follows:

2-3 (c) For an election to be held on the date of the general
 2-4 election for state and county officers, the day of the filing
 2-5 deadline is the 70th day before election day.

2-6 SECTION 4. Section 143.008, Election Code, is amended by
 2-7 adding Subsection (c) to read as follows:

2-8 (c) This section does not apply to an election to be held on
 2-9 the date of the general election for state and county officers.

2-10 SECTION 5. Section 144.005, Election Code, is amended by
 2-11 amending Subsections (a) and (c) and adding Subsection (d) to read
 2-12 as follows:

2-13 (a) Except as provided by Subsection (d), an [An]
 2-14 application for a place on the ballot must be filed not later than 5
 2-15 p.m. of the 62nd day before election day.

2-16 (c) The governing body of a political subdivision for which
 2-17 a deadline for filing for candidacy is prescribed by a law outside
 2-18 this code shall take appropriate action to comply with Subsections
 2-19 [Subsection] (a) and (d) and to adjust any affected date, deadline,
 2-20 or procedure to allow the same interval of time in relation to the
 2-21 filing deadline as would be provided by application of the other
 2-22 law. The secretary of state shall prescribe any rules necessary to
 2-23 facilitate the implementation of this subsection.

2-24 (d) For an election to be held on the date of the general
 2-25 election for state and county officers, the day of the filing
 2-26 deadline is the 70th day before election day.

2-27 SECTION 6. Section 144.006, Election Code, is amended to
 2-28 read as follows:

2-29 Sec. 144.006. FILING DEADLINE FOR DECLARED WRITE-IN
 2-30 CANDIDATE. (a) Except as otherwise provided by law, a declaration
 2-31 of write-in candidacy must be filed not later than 5 p.m. of the
 2-32 fifth day after the date an application for a place on the ballot is
 2-33 required to be filed in an election in which:

2-34 (1) the filing deadline for an application for a place
 2-35 on the ballot is the 62nd [~~45th~~] day before election day; and

2-36 (2) write-in votes may be counted only for names
 2-37 appearing on a list of declared write-in candidates.

2-38 (b) For an election to be held on the date of the general
 2-39 election for state and county officers, the day of the filing
 2-40 deadline is the 67th day before election day.

2-41 SECTION 7. Sections 145.032 and 145.035, Election Code, are
 2-42 amended to read as follows:

2-43 Sec. 145.032. DEADLINE FOR WITHDRAWAL. A candidate may not
 2-44 withdraw from the general election after the 74th [~~65th~~] day before
 2-45 election day.

2-46 Sec. 145.035. WITHDRAWN, DECEASED, OR INELIGIBLE
 2-47 CANDIDATE'S NAME OMITTED FROM BALLOT. A candidate's name shall be
 2-48 omitted from the ballot if the candidate withdraws, dies, or is
 2-49 declared ineligible on or before the 74th [~~65th~~] day before
 2-50 election day.

2-51 SECTION 8. Section 145.037(e), Election Code, is amended to
 2-52 read as follows:

2-53 (e) The certification must be delivered not later than 5
 2-54 p.m. of the 70th [~~60th~~] day before election day.

2-55 SECTION 9. Section 145.038(b), Election Code, is amended to
 2-56 read as follows:

2-57 (b) The state chair must deliver the certification of the
 2-58 replacement nominee not later than 5 p.m. of the 67th [~~57th~~] day
 2-59 before election day.

2-60 SECTION 10. Section 145.039, Election Code, is amended to
 2-61 read as follows:

2-62 Sec. 145.039. DECEASED OR INELIGIBLE CANDIDATE'S NAME TO
 2-63 APPEAR ON GENERAL ELECTION BALLOT. If a candidate dies or is
 2-64 declared ineligible after the 74th [~~65th~~] day before election day,
 2-65 the candidate's name shall be placed on the ballot.

2-66 SECTION 11. Sections 145.062, 145.064, and 145.065,
 2-67 Election Code, are amended to read as follows:

2-68 Sec. 145.062. DEADLINE FOR WITHDRAWAL. A candidate may not
 2-69 withdraw from the general election after the 74th [~~65th~~] day before

3-1 election day.

3-2 Sec. 145.064. WITHDRAWN, DECEASED, OR INELIGIBLE
3-3 CANDIDATE'S NAME OMITTED FROM BALLOT. (a) Except as provided by
3-4 Subsection (b), a candidate's name shall be omitted from the ballot
3-5 if the candidate withdraws, dies, or is declared ineligible on or
3-6 before the 74th [~~65th~~] day before election day.

3-7 (b) The name of a deceased candidate may not be omitted if:

3-8 (1) the decedent was the incumbent in the office for
3-9 which the decedent was a candidate; or

3-10 (2) no other candidate's name is to appear on the
3-11 ballot in the race in which the decedent was a candidate.

3-12 Sec. 145.065. DECEASED OR INELIGIBLE CANDIDATE'S NAME TO
3-13 APPEAR ON GENERAL ELECTION BALLOT. If a candidate dies or is
3-14 declared ineligible after the 74th [~~65th~~] day before election day,
3-15 the candidate's name shall be placed on the ballot.

3-16 SECTION 12. Section 145.092, Election Code, is amended by
3-17 adding Subsection (f) to read as follows:

3-18 (f) A candidate in an election for which the filing deadline
3-19 for an application for a place on the ballot is not later than 5 p.m.
3-20 of the 70th day before election day may not withdraw from the
3-21 election after 5 p.m. of the 67th day before election day.

3-22 SECTION 13. Section 145.094(a), Election Code, is amended
3-23 to read as follows:

3-24 (a) The name of a candidate shall be omitted from the ballot
3-25 if the candidate:

3-26 (1) dies before the second day before the date of the
3-27 deadline for filing the candidate's application for a place on the
3-28 ballot;

3-29 (2) withdraws or is declared ineligible before 5 p.m.
3-30 of the second day before the beginning of early voting by personal
3-31 appearance, in an election subject to Section 145.092(a); [~~or~~]

3-32 (3) withdraws or is declared ineligible before 5 p.m.
3-33 of the 53rd day before election day, in an election subject to
3-34 Section 145.092(b); or

3-35 (4) withdraws or is declared ineligible before 5 p.m.
3-36 of the 67th day before election day, in an election subject to
3-37 Section 145.092(f).

3-38 SECTION 14. Section 145.096(a), Election Code, is amended
3-39 to read as follows:

3-40 (a) Except as provided by Subsection (b), a candidate's name
3-41 shall be placed on the ballot if the candidate:

3-42 (1) dies on or after the second day before the deadline
3-43 for filing the candidate's application for a place on the ballot;

3-44 (2) is declared ineligible after 5 p.m. of the second
3-45 day before the beginning of early voting by personal appearance, in
3-46 an election subject to Section 145.092(a); [~~or~~]

3-47 (3) is declared ineligible after 5 p.m. of the 53rd day
3-48 before election day, in an election subject to Section 145.092(b);
3-49 or

3-50 (4) is declared ineligible after 5 p.m. of the 67th day
3-51 before election day, in an election subject to Section 145.092(f).

3-52 SECTION 15. Section 145.097, Election Code, is amended to
3-53 read as follows:

3-54 Sec. 145.097. HOME-RULE CITY CANDIDATE. Provisions
3-55 governing the withdrawal, death, or ineligibility of candidates for
3-56 city offices prescribed by a home-rule city charter supersede this
3-57 chapter to the extent of any conflict, except that this subchapter
3-58 prevails in regard to an election subject to Section 145.092(f).

3-59 SECTION 16. Sections 146.025(a) and (b), Election Code, are
3-60 amended to read as follows:

3-61 (a) A declaration of write-in candidacy must be filed not
3-62 later than 5 p.m. of the 70th [~~60th~~] day before general election
3-63 day, except as otherwise provided by this code. A declaration may
3-64 not be filed earlier than the 30th day before the date of the
3-65 regular filing deadline.

3-66 (b) If a candidate whose name is to appear on the general
3-67 election ballot dies or is declared ineligible after the third day
3-68 before the date of the filing deadline prescribed by Subsection
3-69 (a), a declaration of write-in candidacy for the office sought by

4-1 the deceased or ineligible candidate may be filed not later than 5
 4-2 p.m. of the 67th [~~57th~~] day before election day.

4-3 SECTION 17. Section 146.029(c), Election Code, is amended
 4-4 to read as follows:

4-5 (c) Not later than the 62nd [~~55th~~] day before election day,
 4-6 the certifying authority shall deliver the certification to the
 4-7 authority responsible for having the official ballot prepared in
 4-8 each county in which the office sought by the candidate is to be
 4-9 voted on.

4-10 SECTION 18. Sections 146.0301(a) and (d), Election Code,
 4-11 are amended to read as follows:

4-12 (a) A write-in candidate may not withdraw from the election
 4-13 after the 67th [~~46th~~] day before election day.

4-14 (d) A candidate's name shall be omitted from the list of
 4-15 write-in candidates if the candidate withdraws on or before the
 4-16 67th [~~46th~~] day before election day.

4-17 SECTION 19. Section 146.054, Election Code, is amended to
 4-18 read as follows:

4-19 Sec. 146.054. FILING DEADLINE. (a) Except as provided by
 4-20 Subsection (b), a [A] declaration of write-in candidacy must be
 4-21 filed not later than 5 p.m. of the fifth day after the date an
 4-22 application for a place on the ballot is required to be filed.

4-23 (b) For an election to be held on the date of the general
 4-24 election for state and county officers, the day of the filing
 4-25 deadline is the 67th day before election day.

4-26 SECTION 20. Section 161.008(b), Election Code, is amended
 4-27 to read as follows:

4-28 (b) Not later than the 62nd [~~55th~~] day before general
 4-29 election day, the secretary of state shall deliver the
 4-30 certification to the authority responsible for having the official
 4-31 general election ballot prepared in each county in which the
 4-32 candidate's name is to appear on the ballot.

4-33 SECTION 21. Section 192.031, Election Code, is amended to
 4-34 read as follows:

4-35 Sec. 192.031. PARTY CANDIDATE'S ENTITLEMENT TO PLACE ON
 4-36 BALLOT. A political party is entitled to have the names of its
 4-37 nominees for president and vice-president of the United States
 4-38 placed on the ballot in a presidential general election if:

4-39 (1) the nominees possess the qualifications for those
 4-40 offices prescribed by federal law;

4-41 (2) before 5 p.m. of the 70th [~~60th~~] day before
 4-42 presidential election day, the party's state chair signs and
 4-43 delivers to the secretary of state a written certification of:

4-44 (A) the names of the party's nominees for
 4-45 president and vice-president; and

4-46 (B) the names and residence addresses of
 4-47 presidential elector candidates nominated by the party, in a number
 4-48 equal to the number of presidential electors that federal law
 4-49 allocates to this state; and

4-50 (3) the party is:

4-51 (A) required or authorized by Subchapter A of
 4-52 Chapter 172 to make its nominations by primary election; or

4-53 (B) entitled to have the names of its nominees
 4-54 placed on the general election ballot under Chapter 181.

4-55 SECTION 22. Section 192.033(b), Election Code, is amended
 4-56 to read as follows:

4-57 (b) Not later than the 62nd [~~55th~~] day before presidential
 4-58 election day, the secretary of state shall deliver the
 4-59 certification to the authority responsible for having the official
 4-60 ballot prepared in each county.

4-61 SECTION 23. Section 192.062(a), Election Code, is amended
 4-62 to read as follows:

4-63 (a) The secretary of state shall certify in writing for
 4-64 placement on the ballot the name of a political party's replacement
 4-65 nominee for president or vice-president of the United States if:

4-66 (1) the original nominee withdraws, dies, or is
 4-67 declared ineligible on or before the 74th [~~65th~~] day before
 4-68 presidential election day; and

4-69 (2) the party's state chair delivers certification of

5-1 the replacement nominee's name, signed by the state chair, to the
 5-2 secretary of state not later than 5 p.m. of the 70th [~~60th~~] day
 5-3 before presidential election day.

5-4 SECTION 24. Section 192.063(a), Election Code, is amended
 5-5 to read as follows:

5-6 (a) The name of an independent presidential candidate and
 5-7 the name of the candidate's running mate shall be omitted from the
 5-8 ballot if the presidential candidate withdraws, dies, or is
 5-9 declared ineligible on or before the 74th [~~65th~~] day before
 5-10 presidential election day.

5-11 SECTION 25. Section 192.064(a), Election Code, is amended
 5-12 to read as follows:

5-13 (a) The secretary of state shall certify in writing for
 5-14 placement on the ballot the name of a replacement vice-presidential
 5-15 running mate for an independent candidate for president of the
 5-16 United States if:

5-17 (1) the original running mate withdraws, dies, or is
 5-18 declared ineligible on or before the 74th [~~65th~~] day before
 5-19 presidential election day; and

5-20 (2) the independent presidential candidate delivers
 5-21 certification of the replacement running mate's name, signed by the
 5-22 presidential candidate, to the secretary of state not later than 5
 5-23 p.m. of the 70th [~~60th~~] day before presidential election day.

5-24 SECTION 26. Section 201.051, Election Code, is amended to
 5-25 read as follows:

5-26 Sec. 201.051. TIME FOR ORDERING ELECTION. (a) If a vacancy
 5-27 in office is to be filled by special election, the election shall be
 5-28 ordered as soon as practicable after the vacancy occurs, subject to
 5-29 Subsection (b).

5-30 (b) For a vacancy to be filled by a special election to be
 5-31 held on the date of the general election for state and county
 5-32 officers, the election shall be ordered not later than the 70th day
 5-33 before election day.

5-34 SECTION 27. Section 201.054, Election Code, is amended by
 5-35 amending Subsection (a) and adding Subsection (f) to read as
 5-36 follows:

5-37 (a) Except as provided by Subsection (f), a [A] candidate's
 5-38 application for a place on a special election ballot must be filed
 5-39 not later than:

5-40 (1) 5 p.m. of the 31st day before election day, if
 5-41 election day is on or after the 36th day after the date the election
 5-42 is ordered; or

5-43 (2) 5 p.m. of a day fixed by the authority ordering the
 5-44 election, which day must be not earlier than the fifth day after the
 5-45 date the election is ordered and not later than the 20th day before
 5-46 election day, if election day is before the 36th day after the date
 5-47 the election is ordered.

5-48 (f) For a special election to be held on the date of the
 5-49 general election for state and county officers, the day of the
 5-50 filing deadline is the 67th day before election day.

5-51 SECTION 28. Section 202.002, Election Code, is amended to
 5-52 read as follows:

5-53 Sec. 202.002. VACANCY FILLED AT GENERAL ELECTION. (a) If a
 5-54 vacancy occurs on or before the 74th [~~65th~~] day before the general
 5-55 election for state and county officers held in the next-to-last
 5-56 even-numbered year of a term of office, the remainder of the
 5-57 unexpired term shall be filled at the next general election for
 5-58 state and county officers, as provided by this chapter.

5-59 (b) If a vacancy occurs after the 74th [~~65th~~] day before a
 5-60 general election day, an election for the unexpired term may not be
 5-61 held at that general election. The appointment to fill the vacancy
 5-62 continues until the next succeeding general election and until a
 5-63 successor has been elected and has qualified for the office.

5-64 SECTION 29. Section 202.007(a), Election Code, is amended
 5-65 to read as follows:

5-66 (a) If a vacancy occurs after runoff primary election day,
 5-67 an independent candidate for the unexpired term must file the
 5-68 application for a place on the ballot not later than 5 p.m. of the
 5-69 30th day after the date the vacancy occurs or 5 p.m. of the 70th

6-1 [~~60th~~] day before general election day, whichever is earlier.

6-2 SECTION 30. Section 11.055, Education Code, is amended by
6-3 amending Subsection (a) and adding Subsection (c) to read as
6-4 follows:

6-5 (a) Except as provided by Subsection (c), an [A]
6-6 application of a candidate for a place on the ballot must be filed
6-7 not later than 5 p.m. of the 62nd day before the date of the
6-8 election. An application may not be filed earlier than the 30th day
6-9 before the date of the filing deadline.

6-10 (c) For an election to be held on the date of the general
6-11 election for state and county officers, the day of the filing
6-12 deadline is the 70th day before election day.

6-13 SECTION 31. Section 11.056, Education Code, is amended by
6-14 amending Subsection (b) and adding Subsection (e) to read as
6-15 follows:

6-16 (b) Except as provided by Subsection (e), a [A] declaration
6-17 of write-in candidacy must be filed not later than 5 p.m. of the
6-18 fifth day after the date an application for a place on the ballot is
6-19 required to be filed.

6-20 (e) For an election to be held on the date of the general
6-21 election for state and county officers, the day of the filing
6-22 deadline is the 67th day before election day.

6-23 SECTION 32. Section 130.0825, Education Code, is amended by
6-24 amending Subsection (b) and adding Subsection (e) to read as
6-25 follows:

6-26 (b) Except as provided by Subsection (e), a [A] declaration
6-27 of write-in candidacy must be filed not later than 5 p.m. of the
6-28 fifth day after the date an application for a place on the ballot is
6-29 required to be filed.

6-30 (e) For an election to be held on the date of the general
6-31 election for state and county officers, the day of the filing
6-32 deadline is the 67th day before election day.

6-33 SECTION 33. Section 285.131, Health and Safety Code, is
6-34 amended by amending Subsection (d) and adding Subsection (g) to
6-35 read as follows:

6-36 (d) Except as provided by Subsection (g), a [A] declaration
6-37 of write-in candidacy must be filed not later than 5 p.m. of the
6-38 fifth day after the date an application for a place on the ballot is
6-39 required to be filed.

6-40 (g) For an election to be held on the date of the general
6-41 election for state and county officers, the day of the filing
6-42 deadline is the 67th day before election day.

6-43 SECTION 34. Section 63.0945, Water Code, is amended by
6-44 amending Subsection (d) and adding Subsection (f) to read as
6-45 follows:

6-46 (d) Except as provided by Subsection (f), a [A] declaration
6-47 of write-in candidacy must be filed not later than 5 p.m. of the
6-48 fifth day after the date an application for a place on the ballot is
6-49 required to be filed.

6-50 (f) For an election to be held on the date of the general
6-51 election for state and county officers, the day of the filing
6-52 deadline is the 67th day before election day.

6-53 SECTION 35. The secretary of state shall adopt rules as
6-54 necessary to implement this Act, including the adjustment of any
6-55 affected date, deadline, or procedure.

6-56 SECTION 36. This Act takes effect September 1, 2005.

6-57 * * * * *