

1-1 By: Carona S.B. No. 896
1-2 (In the Senate - Filed March 2, 2005; March 10, 2005, read
1-3 first time and referred to Committee on State Affairs;
1-4 April 20, 2005, reported favorably by the following vote: Yeas 8,
1-5 Nays 0; April 20, 2005, sent to printer.)

1-6 A BILL TO BE ENTITLED
1-7 AN ACT

1-8 relating to the powers and duties of and the appointment of certain
1-9 election officers.

1-10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-11 SECTION 1. Subsections (c), (d), and (e), Section 32.002,
1-12 Election Code, are amended to read as follows:

1-13 (c) The presiding judge and alternate presiding judge must
1-14 be affiliated or aligned with different political parties, subject
1-15 to this subsection. Before July of each year, the county chair of a
1-16 political party whose candidate for governor received the highest
1-17 or second highest number of votes in the county in the most recent
1-18 gubernatorial general election shall submit in writing to the
1-19 commissioners court a list of names of persons in order of
1-20 preference for each precinct who are eligible for appointment as an
1-21 election judge. The county chair may supplement the list of names
1-22 of persons until the 20th day before a general election or the 15th
1-23 day before a special election in case an appointed election judge
1-24 becomes unable to serve. The commissioners court shall appoint the
1-25 first person meeting the applicable eligibility requirements from
1-26 the list submitted in compliance with this subsection by the party
1-27 with the highest number of votes in the precinct as the presiding
1-28 judge and the first person meeting the applicable eligibility
1-29 requirements from the list submitted in compliance with this
1-30 subsection by the party with the second highest number of votes in
1-31 the precinct as the alternate presiding judge. The commissioners
1-32 court may reject the list if the persons whose names are submitted
1-33 on the list are determined not to meet the applicable eligibility
1-34 requirements.

1-35 (d) The county clerk, after making a reasonable effort to
1-36 consult with the party chair of the appropriate political party or
1-37 parties, shall submit to the commissioners court a list of names of
1-38 persons eligible for appointment as presiding judge and alternate
1-39 presiding judge for each precinct in which an appointment is not
1-40 made under Subsection (c). The commissioners court shall appoint
1-41 an eligible person from the list who is affiliated or aligned with
1-42 the appropriate party, if available.

1-43 (e) The commissioners court shall fill a vacancy in the
1-44 position of presiding judge or alternate presiding ~~[election]~~ judge
1-45 for the remainder of the unexpired term. An appointment to fill a
1-46 vacancy may be made at any regular or special term of court. Not
1-47 later than 48 hours after the county clerk becomes aware of a
1-48 vacancy, the county clerk shall notify the county chair of the same
1-49 political party with which the original judge was affiliated or
1-50 aligned of the vacancy. Not later than the fifth day after the date
1-51 of notification of the vacancy, the county chair of the same
1-52 political party with which the original judge was affiliated or
1-53 aligned shall submit to the commissioners court in writing the name
1-54 of a person who is eligible for the appointment. If a name is
1-55 submitted in compliance with this subsection, the commissioners
1-56 court shall appoint that person to the unexpired term. If a name is
1-57 not submitted in compliance with this subsection, the county clerk
1-58 shall submit to the commissioners court a list of names of persons
1-59 eligible as an appointee for the unexpired term. The commissioners
1-60 court shall appoint an eligible person from the list who is
1-61 affiliated or aligned with the same party, if available.

1-62 SECTION 2. Subsections (a) and (f), Section 32.007,
1-63 Election Code, are amended to read as follows:

1-64 (a) If neither the presiding judge nor the alternate

2-1 presiding judge can serve in an election and their inability to
2-2 serve is discovered after the 20th day before a general election or
2-3 the 15th day before a special election [~~so late that it is~~
2-4 ~~impracticable to fill the vacancy in the normal manner~~], the
2-5 presiding officer of the appointing authority or the authority if a
2-6 single officer shall appoint a replacement judge to preside at the
2-7 election, subject to Subsection (f). If the appointing authority
2-8 is unavailable, the authority responsible for distributing the
2-9 supplies for the election shall appoint the replacement judge.

2-10 (f) A person who is appointed as a replacement for a judge
2-11 originally appointed under Section 32.002 must be affiliated or
2-12 aligned with the same political party as was the original judge, if
2-13 possible, and the appointing authority shall make a reasonable
2-14 effort to consult with the party chair of the appropriate political
2-15 party before making an appointment under this section.

2-16 SECTION 3. Section 32.034, Election Code, is amended by
2-17 adding Subsection (e) to read as follows:

2-18 (e) If a presiding judge has not been appointed at the time
2-19 the county chair of a political party is required to submit a list
2-20 of names for the appointment of a clerk under this section, the list
2-21 of names shall be submitted to the county chair of the political
2-22 party whose candidate for governor received the most votes in the
2-23 precinct in the most recent gubernatorial election and to the
2-24 commissioners court. The county chair, or the commissioners court
2-25 in a county without a county chair, shall appoint clerks from the
2-26 list in the same manner provided for a presiding judge to appoint
2-27 clerks by this section.

2-28 SECTION 4. Section 32.072, Election Code, is amended by
2-29 adding Subsection (c) to read as follows:

2-30 (c) With respect to designating the working hours of and
2-31 assigning the duties to be performed by the election clerks, the
2-32 presiding judge, to facilitate and protect the integrity of the
2-33 voting process, shall treat all election clerks serving at the
2-34 polling place uniformly.

2-35 SECTION 5. This Act takes effect September 1, 2005.

2-36 * * * * *