

AN ACT

relating to the requirements for accessibility to voting equipment by persons with disabilities in certain elections and reimbursement from state funds for costs associated with a special election held statewide.

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

SECTION 1. (a) The heading to Section 31.009, Election Code, is amended to read as follows:

Sec. 31.009. DISTRIBUTION OF CERTAIN [~~FEDERAL~~] FUNDS.

(b) Section 31.009(a), Election Code, is amended to read as follows:

(a) If federal funds are made available to assist the state in the administration of elections, including assistance for the phasing out or prohibition of the use of punch-card ballot voting systems in this state, or state funds are made available to reimburse political subdivisions for expenses incurred in conducting a special election that is held statewide, the secretary of state shall administer and distribute the funds as appropriate to most effectively facilitate the purposes for which the funds are made available.

(c) This section takes effect immediately if this Act receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate

1 effect, this section takes effect on the 91st day after the last day
2 of the legislative session.

3 SECTION 2. Section 61.012(a), Election Code, is amended to
4 read as follows:

5 (a) Except as provided by Section 61.013 [~~Not later than~~
6 ~~January 1, 2006~~], each polling place must provide at least one
7 voting station that:

8 (1) complies with:

9 (A) Section 504 of the federal Rehabilitation Act
10 of 1973 (29 U.S.C. Section 794) and its subsequent amendments;

11 (B) [~~and~~] Title II of the federal Americans with
12 Disabilities Act (42 U.S.C. Section 12131 et seq.) and its
13 subsequent amendments; and

14 (C) the requirements for accessibility under 42
15 U.S.C. Section 15481(a)(3) and its subsequent amendments; and

16 (2) provides a practical and effective means for
17 voters with physical disabilities to cast a secret ballot.

18 SECTION 3. Subchapter A, Chapter 61, Election Code, is
19 amended by adding Section 61.013 to read as follows:

20 Sec. 61.013. ACCESS BY PERSONS WITH DISABILITIES:
21 ELECTIONS OF CERTAIN POLITICAL SUBDIVISIONS. (a) For an election
22 other than an election of a political subdivision that is held
23 jointly with another election in which a federal office appears on
24 the ballot, the political subdivision is not required to meet the
25 requirements of Section 61.012(a)(1)(C) if the political
26 subdivision:

27 (1) is a county with a population of less than 2,000;

1 (2) is a county with a population of 2,000 or more but
2 less than 5,000, and the county provides at least one voting station
3 that meets the requirements for accessibility under 42 U.S.C.
4 Section 15481(a)(3) on election day;

5 (3) is a county with a population of 5,000 or more but
6 less than 10,000, and the county provides at least one voting
7 station that meets the requirements for accessibility under 42
8 U.S.C. Section 15481(a)(3) on election day and during the period
9 for early voting by personal appearance;

10 (4) is a county with a population of 10,000 or more but
11 less than 20,000, and the county:

12 (A) makes a showing in the manner provided by
13 Subsection (c) that compliance with Section 61.012(a)(1)(C)
14 constitutes an undue burden on the county;

15 (B) provides at least one voting station that
16 meets the requirements for accessibility under 42 U.S.C. Section
17 15481(a)(3) on election day and during the period for early voting
18 by personal appearance; and

19 (C) provides a mobile voting station that meets
20 the requirements for accessibility under 42 U.S.C. Section
21 15481(a)(3) that during the period for early voting by personal
22 appearance is deployed at least once at each polling place used for
23 early voting by personal appearance; or

24 (5) is located in a county described by Subdivisions
25 (1)-(4) and meets the same requirements as the county in which the
26 political subdivision is located.

27 (b) A voter with a disability that desires a reasonable

1 accommodation to vote in an election of a county described by
2 Subsection (a)(1) or a political subdivision located in that county
3 shall make a request for the accommodation with the early voting
4 clerk of the county or political subdivision not later than the 21st
5 day before the date of the election. On receipt of the request, the
6 early voting clerk shall make a reasonable accommodation to allow
7 the voter to cast a vote.

8 (c) A county or political subdivision may make a showing of
9 undue burden under Subsection (a)(4)(A) by filing an application
10 with the secretary of state not later than the 90th day before the
11 date of the election that states the reasons that compliance would
12 constitute an undue burden. A showing of an undue burden may be
13 satisfied by proof that the election costs associated with
14 compliance with Section 61.012(a)(1)(C) constitute a significant
15 expense for the county or political subdivision and reflect an
16 increase of at least 25 percent in the costs of holding an election
17 as compared to the costs of the last general election held by the
18 county or political subdivision before January 1, 2006. Not later
19 than the 20th day after the date of receiving an application under
20 this section, the secretary of state shall determine whether
21 compliance with Section 61.012(a)(1)(C) is an undue burden for the
22 county or political subdivision.

23 (d) A county or political subdivision that intends to use
24 this section to provide fewer voting stations that meet the
25 requirements for accessibility under 42 U.S.C. Section 15481(a)(3)
26 than required by Section 61.012(a)(1)(C) must:

27 (1) provide notice to the secretary of state of that

1 intent not later than the 90th day before the date of the election;
2 and

3 (2) for a county described by Subsection (a)(2), (3),
4 or (4), or a political subdivision located in such a county, publish
5 notice of the location of each voting station that meets the
6 requirements for accessibility under 42 U.S.C. Section 15481(a)(3)
7 in a newspaper of general circulation in the county or political
8 subdivision not later than the 15th day before the date of the start
9 of the period of early voting by personal appearance.

10 (e) For purposes of this section, a political subdivision
11 located in more than one county may choose:

12 (1) to be considered located in the county that
13 contains the greatest number of registered voters of the political
14 subdivision; or

15 (2) for each portion of the political subdivision
16 located in a different county, to be considered a separate
17 political subdivision.

18 (f) The secretary of state shall prescribe procedures and
19 adopt rules as necessary to implement this section.

20 SECTION 4. Section 61.012(b), Election Code, is repealed.

21 SECTION 5. Subtitle H, Title 6, Special District Local Laws
22 Code, is amended by adding Chapter 8818 to read as follows:

23 CHAPTER 8818. HICKORY UNDERGROUND WATER CONSERVATION

24 DISTRICT NO. 1

25 SUBCHAPTER A. GENERAL PROVISIONS

26 Sec. 8818.001. DEFINITION. In this chapter, "district"
27 means the Hickory Underground Water Conservation District No. 1.

1 Sec. 8818.002. ELECTION PROCEDURES. (a) Notwithstanding
2 Section 61.012, Election Code, for an election held by the
3 district, other than an election that is held jointly with another
4 election in which a federal office appears on the ballot, the use of
5 a voting station that meets the requirements for accessibility
6 under 42 U.S.C. Section 15481(a)(3) is not required.

7 (b) The board of directors of the district shall notify the
8 secretary of state if the district does not provide at least one
9 voting station at each polling place used in the election that meets
10 the requirements for accessibility under 42 U.S.C. Section
11 15481(a)(3).

12 SECTION 6. It is the intent of the legislature that in
13 creating the formula for the finding of an undue burden in Section
14 61.013(c), Election Code, as added by this Act, the legislature
15 took into account the size of the political subdivision holding the
16 election, which affects the amount of available funds and election
17 workforce, and the costs of voting machine systems compared to
18 previous accommodations for voters with disabilities.

19 SECTION 7. Except as otherwise provided by this Act, this
20 Act takes effect immediately if it receives a vote of two-thirds of
21 all the members elected to each house, as provided by Section 39,
22 Article III, Texas Constitution. If this Act does not receive the
23 vote necessary for immediate effect, this Act takes effect
24 September 1, 2007.

President of the Senate

Speaker of the House

I certify that H.B. No. 556 was passed by the House on May 2, 2007, by the following vote: Yeas 147, Nays 0, 2 present, not voting; and that the House concurred in Senate amendments to H.B. No. 556 on May 25, 2007, by the following vote: Yeas 140, Nays 0, 2 present, not voting.

Chief Clerk of the House

I certify that H.B. No. 556 was passed by the Senate, with amendments, on May 23, 2007, by the following vote: Yeas 31, Nays 0.

Secretary of the Senate

APPROVED: _____

Date

Governor