

By: Berman

H.B. No. 3118

A BILL TO BE ENTITLED

1 AN ACT

2 relating to requiring a voter to be affiliated with a political
3 party to vote in that party's primary election or otherwise
4 participate in that party's affairs.

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

6 SECTION 1. Section 13.002(c), Election Code, is amended to
7 read as follows:

8 (c) A registration application must include:

9 (1) the applicant's first name, middle name, if any,
10 last name, and former name, if any;

11 (2) the month, day, and year of the applicant's birth;

12 (3) a statement that the applicant is a United States
13 citizen;

14 (4) a statement that the applicant is a resident of the
15 county;

16 (5) a statement that the applicant has not been
17 determined mentally incompetent by a final judgment of a court;

18 (6) a statement that the applicant has not been
19 finally convicted of a felony or that the applicant is a felon
20 eligible for registration under Section 13.001;

21 (7) the applicant's residence address or, if the
22 residence has no address, the address at which the applicant
23 receives mail and a concise description of the location of the
24 applicant's residence;

1 (8) the following information:

2 (A) the applicant's Texas driver's license number
3 or the number of a personal identification card issued by the
4 Department of Public Safety or a statement by the applicant that the
5 applicant has not been issued a driver's license or personal
6 identification card; or

7 (B) if the applicant has not been issued a number
8 described by Paragraph (A), the last four digits of the applicant's
9 social security number or a statement by the applicant that the
10 applicant has not been issued a social security number;

11 (9) if the application is made by an agent, a statement
12 of the agent's relationship to the applicant; ~~and~~

13 (10) the city and county in which the applicant
14 formerly resided; and

15 (11) the applicant's political party affiliation, if
16 any.

17 SECTION 2. Section 13.122(a), Election Code, is amended to
18 read as follows:

19 (a) In addition to the other statements and spaces for
20 entering information that appear on an officially prescribed
21 registration application form, each official form must include:

22 (1) the statement: "I understand that giving false
23 information to procure a voter registration is perjury and a crime
24 under state and federal law.";

25 (2) a space for the applicant's registration number;

26 (3) a space for the applicant's Texas driver's license
27 number or number of a personal identification card issued by the

1 Department of Public Safety;

2 (4) a space for the applicant's telephone number;

3 (5) a space for the applicant's social security
4 number;

5 (6) a space for the applicant's sex;

6 (7) a statement indicating that the furnishing of the
7 applicant's telephone number and sex is optional;

8 (8) a space or box for indicating whether the
9 applicant or voter is submitting new registration information or a
10 change in current registration information;

11 (9) a statement instructing a voter who is using the
12 form to make a change in current registration information to enter
13 the voter's name and the changed information in the appropriate
14 spaces on the form;

15 (10) a statement that if the applicant declines to
16 register to vote, that fact will remain confidential and will be
17 used only for voter registration purposes;

18 (11) a statement that if the applicant does register
19 to vote, information regarding the agency or office to which the
20 application is submitted will remain confidential and will be used
21 only for voter registration purposes;

22 (12) a space or box for indicating whether the
23 applicant is interested in working as an election judge;

24 (13) a statement warning that a conviction for making
25 a false statement may result in imprisonment for up to the maximum
26 amount of time provided by law, a fine of up to the maximum amount
27 provided by law, or both the imprisonment and the fine; ~~and~~

1 (14) a space for the applicant's political party
2 affiliation; and

3 (15) any other voter registration information
4 required by federal law or considered appropriate and required by
5 the secretary of state.

6 SECTION 3. Section 15.001(a), Election Code, is amended to
7 read as follows:

8 (a) Each voter registration certificate issued must
9 contain:

10 (1) the voter's name in the form indicated by the
11 voter, subject to applicable requirements prescribed by Section
12 13.002 and by rule of the secretary of state;

13 (2) the voter's residence address or, if the residence
14 has no address, the address at which the voter receives mail and a
15 concise description of the location of the voter's residence;

16 (3) the month, day, and year of the voter's birth;

17 (4) the number of the county election precinct in
18 which the voter resides;

19 (5) the voter's effective date of registration if an
20 initial certificate;

21 (6) the voter's registration number;

22 (7) an indication of the period for which the
23 certificate is issued;

24 (8) a statement explaining the circumstances under
25 which the voter will receive a new certificate;

26 (9) a space for indicating [~~stamping~~] the voter's
27 political party affiliation;

1 (10) a statement that voting with the certificate by a
2 person other than the person in whose name the certificate is issued
3 is a felony;

4 (11) a space for the voter's signature;

5 (12) a statement that the voter must sign the
6 certificate personally, if able to sign, immediately on receipt;

7 (13) a space for the voter to correct the information
8 on the certificate followed by a signature line;

9 (14) the statement: "If any information on this
10 certificate changes or is incorrect, correct the information in the
11 space provided, sign below, and return this certificate to the
12 voter registrar."; and

13 (15) the registrar's mailing address and telephone
14 number.

15 SECTION 4. Section 15.025(a), Election Code, is amended to
16 read as follows:

17 (a) Except as provided by Subsections (b) and (d) and
18 Section 162.003(d), the registration of a voter described by this
19 subsection whose information is changed on the registration records
20 becomes effective as to the change on the 30th day after:

21 (1) the date the voter submits to the registrar a
22 notice of a change in registration information under Section
23 15.021 or a response under Section 15.053, indicating the change;
24 or

25 (2) the date the voter submits a statement of
26 residence to an election officer under Section 63.0011 or a
27 registration application or change of address to an agency employee

1 under Chapter 20, indicating the change.

2 SECTION 5. Section 18.005(a), Election Code, is amended to
3 read as follows:

4 (a) Each original and supplemental list of registered
5 voters must:

6 (1) contain the voter's name, residence address, date
7 of birth, and registration number as provided by the statewide
8 computerized voter registration list;

9 (2) be arranged alphabetically by voter name;

10 (3) contain the notation required by Section 15.111;
11 and

12 (4) contain the political party affiliation of each
13 voter, if any [~~until Section 13.122(d) expires, identify each voter~~
14 ~~registered by mail for the first time who failed to provide a copy~~
15 ~~of a document described by Section 63.0101 establishing the voter's~~
16 ~~identity at the time of registration]~~.

17 SECTION 6. Section 63.011(a), Election Code, is amended to
18 read as follows:

19 (a) A person to whom Section 63.008(b), ~~[or]~~ 63.009(a), or
20 Section 172.1113(c) applies may cast a provisional ballot if the
21 person executes an affidavit stating that the person:

22 (1) is a registered voter in the precinct in which the
23 person seeks to vote; and

24 (2) is eligible to vote in the election.

25 SECTION 7. Section 112.002, Election Code, is amended by
26 adding Subsection (g) to read as follows:

27 (g) If the voter seeks a limited ballot for a party primary

1 election, the voter must indicate the political party the voter was
2 affiliated with at the address where the voter was previously
3 registered on the statement executed under Subsection (c). If the
4 early voting clerk can establish the voter's affiliation from the
5 previous registration, the voter is entitled to vote a limited
6 ballot in that party's primary.

7 SECTION 8. Section 142.004(a), Election Code, is amended to
8 read as follows:

9 (a) To be entitled to a place on the general election
10 ballot, a candidate must:

- 11 (1) make an application for a place on the ballot; and
12 (2) not be affiliated with a political party at the
13 time the application is made.

14 SECTION 9. Section 142.008, Election Code, is amended to
15 read as follows:

16 Sec. 142.008. STATEMENT ON PETITION. The following
17 statement must appear at the top of each page of a candidate's
18 petition: "I know the purpose of this petition. I am not
19 affiliated with a political party that holds a primary election
20 ~~[have not voted in the general primary election or runoff primary~~
21 ~~election of any political party that has nominated, at either~~
22 ~~election, a candidate for the office of (insert office title) for~~
23 ~~which (insert candidate's name) is a candidate]."~~

24 SECTION 10. Section 142.009, Election Code, is amended to
25 read as follows:

26 Sec. 142.009. PETITION TO BE CIRCULATED AFTER PRIMARY. A
27 signature on a candidate's petition is invalid if the signer:

1 (1) signed the petition on or before general primary
2 election day or, if a runoff primary is held for the office sought
3 by the candidate, on or before runoff primary election day; or

4 (2) is affiliated with a political party that holds a
5 primary election [~~voted in the general or runoff primary election~~
6 ~~of a political party that made a nomination, at either primary, for~~
7 ~~the office sought by the candidate~~].

8 SECTION 11. Section 161.005(a), Election Code, is amended
9 to read as follows:

10 (a) To be eligible to be a candidate for or to serve as a
11 county or precinct chair of a political party, a person must:

12 (1) be a qualified voter of the county and affiliated
13 with that political party; and

14 (2) not be a candidate for nomination or election to,
15 or be the holder of, an elective office of the federal, state, or
16 county government.

17 SECTION 12. Section 162.001, Election Code, is amended to
18 read as follows:

19 Sec. 162.001. AFFILIATION WITH PARTY REQUIRED. [~~(a)~~] A
20 person must be affiliated with a political party to be eligible to:

21 (1) serve as a delegate to or otherwise participate in
22 a convention held by the party under this code;

23 (2) be elected as a member of or be appointed to fill a
24 vacancy on a state executive committee; [~~or~~]

25 (3) be appointed to fill a vacancy on a county
26 executive committee;

27 (4) vote in the party's primary election;

1 (5) be a candidate in the party's primary election;

2 (6) be the party's nominee for an office elected at the
3 general election for state and county officers; or

4 (7) be a presidential elector for the political party.

5 ~~[(b) The affiliation requirement prescribed by Subsections~~
6 ~~(a)(2) and (3) applies only during a voting year in which the~~
7 ~~general election for state and county officers is held and does not~~
8 ~~apply until:~~

9 ~~[(1) general primary election day, for a party holding~~
10 ~~a primary election; or~~

11 ~~[(2) the date of the precinct conventions held under~~
12 ~~this title, for a party nominating by convention.]~~

13 SECTION 13. Section 162.003, Election Code, is amended to
14 read as follows:

15 Sec. 162.003. AFFILIATION PROCEDURE ~~[BY VOTING IN~~
16 ~~PRIMARY]~~. (a) A person becomes affiliated with a political party
17 when the person notifies the registrar of the person's
18 affiliation~~+~~

19 ~~[(1) is accepted to vote in the party's primary~~
20 ~~election; or~~

21 ~~[(2) applies for and is provided an early voting or~~
22 ~~limited primary ballot to be voted by mail].~~

23 (b) At the time a person registers to vote the person may:

24 (1) affiliate with a political party that holds a
25 primary election or a political party that makes its nominations by
26 convention regardless of whether the party has a state
27 organization; or

1 (2) indicate no affiliation with any political party.

2 (c) A registered voter who does not indicate an affiliation
3 with a political party of this state shall be listed as
4 "independent" on the voter's registration certificate and on the
5 list of registered voters.

6 (d) A registered voter may change the voter's affiliation
7 status by notifying the registrar as provided by Section 15.021.
8 The change becomes effective:

9 (1) in an odd-numbered year, the 30th day after the
10 date the voter submits notice of the change to the registrar under
11 Section 15.021; or

12 (2) in an even-numbered year:

13 (A) if the change is submitted on or before the
14 31st day before the date of the general primary, the 30th day after
15 the date the voter submits notice of the change; or

16 (B) for a change submitted after the time
17 described in Paragraph (A), January 1 of the following year.

18 (e) A person may also indicate a party affiliation at the
19 time the person submits a federal postcard application under
20 Chapter 101. For an application that indicates a party preference
21 submitted by a person:

22 (1) who is not a registered voter, the affiliation
23 takes effect on the earlier of:

24 (A) the first election at which the person is
25 eligible to vote following the submission of the application; or

26 (B) the 30th day after the day the application is
27 received; and

1 (2) who is a registered voter, any change in
2 affiliation takes effect at the time provided for a change under
3 Subsection (d).

4 (f) The secretary of state shall prescribe any additional
5 procedures necessary to implement this section.

6 SECTION 14. Section 162.010, Election Code, is amended to
7 read as follows:

8 Sec. 162.010. DURATION OF AFFILIATION. A party affiliation
9 expires on cancellation of a voter's registration or at the time a
10 change in affiliation takes effect under Section 162.003(d) [at the
11 end of the voting year in which the person became affiliated].

12 SECTION 15. Section 162.013, Election Code, is amended to
13 read as follows:

14 Sec. 162.013. VOID VOTE. A vote in a primary election is
15 void if the voter is not affiliated with the political party holding
16 the primary [previously voted in a primary election of another
17 party or participated in a convention of another party during the
18 same voting year].

19 SECTION 16. Section 162.014(a), Election Code, is amended
20 to read as follows:

21 (a) A person commits an offense if the person knowingly
22 votes or attempts to vote in a primary election or participates or
23 attempts to participate in a convention of a party without being
24 affiliated with that party [after having voted in a primary
25 election or participated in a convention of another party during
26 the same voting year].

27 SECTION 17. Section 172.021, Election Code, is amended by

1 amending Subsection (b) and adding Subsections (b-1) and (h) to
2 read as follows:

3 (b) In [~~An application must, in~~] addition to complying with
4 Section 141.031, an application must:

5 (1) indicate that, at the time of the application, the
6 applicant is affiliated with the political party whose nomination
7 for office the candidate seeks; and

8 (2) be accompanied by the appropriate filing fee or a
9 petition in lieu of the filing fee that satisfies the requirements
10 prescribed by Section 141.062.

11 (b-1) A political party may not require payment of a fee
12 under this section as a condition to applying for a place on the
13 ballot as a candidate for county chair or precinct chair.

14 (h) A signature on a petition under this section is not
15 valid if at the time of signing the signer is affiliated with a
16 political party other than the party whose nomination for office
17 the candidate seeks. A signature on a petition under this section
18 is valid if at the time of signing the signer is unaffiliated with a
19 political party.

20 SECTION 18. Section 172.026, Election Code, is amended to
21 read as follows:

22 Sec. 172.026. RESTRICTION ON PETITION SIGNER. On signing a
23 petition to be filed under Section 172.021, the signer becomes
24 ineligible to affiliate with [~~vote in a primary election or~~
25 ~~participate in a convention of~~] another political party during the
26 voting year in which the primary election is held.

27 SECTION 19. Section 172.027, Election Code, is amended to

1 read as follows:

2 Sec. 172.027. STATEMENT ON PETITION. The following
3 statement must appear at the top of each page of a petition to be
4 filed under Section 172.021: "I know that the purpose of this
5 petition is to entitle (insert candidate's name) to have his or her
6 name placed on the ballot for the office of (insert office title,
7 including any place number or other distinguishing number) for the
8 (insert political party's name) primary election. I understand
9 that by signing this petition I become ineligible to affiliate
10 with, vote in a primary election, or participate in a convention of
11 another party, including a party not holding a primary election,
12 during the voting year in which this primary election is held."

13 SECTION 20. Section 172.086, Election Code, is amended to
14 read as follows:

15 Sec. 172.086. PLEDGE ON BALLOT. The following pledge shall
16 be placed on the primary election ballot above the listing of
17 candidates' names: "I am a (insert appropriate political party)
18 and understand that I am ineligible to affiliate with another
19 political party or to vote or participate in another political
20 party's primary election or convention during this voting year."

21 SECTION 21. Section 172.088(c), Election Code, is amended
22 to read as follows:

23 (c) A petition signer may not at the time of signing be
24 affiliated with another political party. A political party by rule
25 may provide for permitting voters who are not affiliated with any
26 political party to be eligible to sign a petition under this section
27 [~~restricting petition signers on the basis of party alignment or~~

1 preference].

2 SECTION 22. Subchapter E, Chapter 172, Election Code, is
3 amended by adding Section 172.1113 to read as follows:

4 Sec. 172.1113. AFFILIATION WITH PARTY REQUIRED. (a) The
5 signature roster for a primary election must state at the top of
6 each page "A person commits a criminal offense if the person
7 knowingly votes in a primary election or participates in a
8 convention of a party without being affiliated with that party."

9 (b) Except as provided by Subsection (c), a person may not
10 be accepted for voting in a primary election of a political party
11 unless:

12 (1) the list of registered voters indicates that the
13 person is affiliated with that political party; or

14 (2) the voter's registration certificate indicates
15 that the voter is affiliated with that political party.

16 (c) A person who seeks to vote in a primary election but
17 cannot establish the person's party affiliation under Subsection
18 (b) may be accepted only for provisional voting under Section
19 63.011.

20 SECTION 23. Section 172.126(g), Election Code, is amended
21 to read as follows:

22 (g) A separate set of ballot boxes or other suitable
23 containers approved by the secretary of state shall be used for each
24 party's primary, except that one set of ballot boxes or other
25 containers may be used in a joint primary using an electronic voting
26 system in which the ballots are deposited by the voters directly
27 into a unit of automatic tabulating equipment. [~~The lists of~~

1 ~~registered voters and the voters' registration certificates shall~~
2 ~~be marked and stamped to show the appropriate party affiliation for~~
3 ~~each voter.]~~ A separate list of registered voters shall be used for
4 each party's primary. The secretary of state by rule shall
5 prescribe requirements to ensure that one party's ballot is readily
6 distinguished from another's, which may include the use of
7 different colors of ink.

8 SECTION 24. Sections 181.006(f) and (g), Election Code, are
9 amended to read as follows:

10 (f) The following statement must appear at the top of each
11 page of the petition: "I know that the purpose of this petition is
12 to entitle the _____ Party to have its nominees placed on the
13 ballot in the general election for state and county officers. I am
14 not affiliated with another political party. [~~I have not voted in~~
15 ~~a primary election or participated in a convention of another party~~
16 ~~during this voting year, and I understand that I become ineligible~~
17 ~~to do so by signing this petition.] I understand that signing more
18 than one petition to entitle a party to have its nominees placed on
19 the general election ballot in the same election is prohibited."~~

20 (g) A person who is affiliated with another political party
21 [~~has voted in a primary election or participated in a convention of~~
22 ~~another party during the voting year in which the petition is~~
23 ~~circulated]~~ is ineligible to sign the petition, and the signature
24 of such a person is invalid.

25 SECTION 25. Section 181.031(a), Election Code, is amended
26 to read as follows:

27 (a) To be entitled to be considered for nomination by a

1 convention held under this chapter, a person must:

2 (1) make an application for nomination; and

3 (2) be affiliated with the political party whose
4 nomination for office the candidate seeks.

5 SECTION 26. Section 181.065, Election Code, is amended to
6 read as follows:

7 Sec. 181.065. PARTICIPANT TO BE AFFILIATED WITH PARTY
8 [~~REGISTERED VOTER~~]. To be eligible to participate in a precinct
9 convention held under this chapter, a person must be affiliated
10 with the political party [~~a registered voter of the precinct or a~~
11 ~~precinct resident who is eligible to vote a limited ballot~~].

12 SECTION 27. Section 182.0041(a), Election Code, is amended
13 to read as follows:

14 (a) To be entitled to be considered for nomination by a
15 convention held under this chapter, a person must:

16 (1) make an application for nomination; and

17 (2) be affiliated with the political party whose
18 nomination for office the candidate seeks.

19 SECTION 28. Sections 192.032(f) and (g), Election Code, are
20 amended to read as follows:

21 (f) The following statement must appear at the top of each
22 page of the petition: "I am not affiliated with a political party
23 that has held [~~did not vote this year in~~] a presidential primary
24 election this year."

25 (g) A signature on the petition is invalid if the signer:

26 (1) signs the petition on or before the date of the
27 presidential primary election in the presidential election year; or

1 (2) is affiliated with a political party that has held
2 ~~[voted in]~~ a presidential primary election during the presidential
3 election year.

4 SECTION 29. Section 203.011, Election Code, is amended to
5 read as follows:

6 Sec. 203.011. PARTY ALIGNMENT ON BALLOT. The party
7 alignment of each candidate shall be printed on the official ballot
8 next to the candidate's name. If a candidate is affiliated with a
9 political party, that party shall be printed next to the
10 candidate's name regardless of the party alignment provided on the
11 application under Section 203.005(b).

12 SECTION 30. Sections 162.004, 162.005, 162.006, 162.007,
13 162.008, 162.009, 162.011, 162.012, 172.1141, and 172.125,
14 Election Code, are repealed.

15 SECTION 31. (a) Not later than October 1, 2007, the voter
16 registrar of each county shall mail to each registered voter in the
17 county notice of the affiliation requirement necessary to vote in a
18 party primary election or to participate in the affairs of a
19 political party. The notice must:

20 (1) inform the voter that to vote in a party primary
21 election or to otherwise participate in the affairs of a political
22 party the voter must be affiliated with that party;

23 (2) inform the voter of the process of affiliation
24 with the voter registrar and state that if a voter does not provide
25 an affiliation, the voter's next registration certificate will
26 indicate that the voter is "independent" and unable to vote in a
27 party's primary;

1 (3) include a postage paid postcard that may be
2 returned to the voter registrar to indicate the voter's
3 affiliation; and

4 (4) be in the form prescribed by the secretary of
5 state.

6 (b) If a registered voter does not indicate a party
7 affiliation before December 1, 2007, the voter registrar shall list
8 the voter's initial affiliation status as "independent." A person
9 whose initial affiliation status is established as independent
10 under this subsection may affiliate with a political party not
11 later than the 31st day before the date of the general primary
12 election in 2008 by providing notice of affiliation to the voter
13 registrar. Notwithstanding Section 162.003(d), Election Code, as
14 added by this Act, the affiliation takes effect on receipt of the
15 notice by the voter registrar.

16 (c) The change in law made by Section 18.005(a), Election
17 Code, as amended by this Act, requiring that each list of registered
18 voters must indicate the political affiliation of each voter
19 applies only to a list of registered voters produced by a voter
20 registrar on or after December 1, 2007.

21 (d) The change in law made by Section 15.001(a), Election
22 Code, as amended by this Act, requiring that each voter
23 registration certificate must indicate the political affiliation
24 of the voter applies only to a certificate effective for voting on
25 or after January 1, 2008.

26 SECTION 32. This Act takes effect September 1, 2007.