

By: Duncan

S.B. No. 1646

Substitute the following for S.B. No. 1646:

By: Berman

C.S.S.B. No. 1646

A BILL TO BE ENTITLED

1

AN ACT

2 relating to certain election practices and procedures; providing
3 penalties.

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

5 SECTION 1. Section 2.051(a), Election Code, is amended to
6 read as follows:

7 (a) Except as provided by Sections 2.055 and 2.056, this
8 subchapter applies only to an election for officers of a political
9 subdivision other than a county in which write-in votes may be
10 counted only for names appearing on a list of write-in candidates
11 and in which[+

12 [~~(1)~~] each candidate for an office that is to appear on
13 the ballot is unopposed, except as provided by Subsection (b) [~~+~~ and

14 [~~(2) no proposition is to appear on the ballot~~]. For
15 purposes of this section, a special election of a political
16 subdivision is considered to be a separate election with a separate
17 ballot from:

18 (1) a general election for officers of the political
19 subdivision held at the same time as the special election; or

20 (2) another special election of the political
21 subdivision held at the same time as the special election.

22 SECTION 2. Section 2.053, Election Code, is amended to read
23 as follows:

24 Sec. 2.053. ACTION ON CERTIFICATION. (a) On receipt of the

1 certification, the governing body of the political subdivision by
2 order or ordinance may declare each unopposed candidate elected to
3 the office. If no election is to be held on election day by the
4 political subdivision, a copy of the order or ordinance shall be
5 posted on election day at each polling place used or that would have
6 been used in the election.

7 (b) If a declaration is made under Subsection (a), the
8 election is not held. [~~A copy of the order or ordinance shall be~~
9 ~~posted on election day at each polling place that would have been~~
10 ~~used in the election.~~]

11 (c) The ballots used at a separate election held at the same
12 time as an election that would have been held if the candidates were
13 not declared elected under this section shall include the offices
14 and names of the candidates declared elected under this section
15 listed separately after the measures or contested races in the
16 separate election under the heading "Unopposed Candidates Declared
17 Elected." The candidates shall be grouped in the same relative
18 order prescribed for the ballot generally. No votes are cast in
19 connection with the candidates.

20 (d) The secretary of state by rule may prescribe any
21 additional procedures necessary to accommodate a particular voting
22 system or ballot style and to facilitate the efficient and
23 cost-effective implementation of this section.

24 (e) A certificate of election shall be issued to each
25 candidate in the same manner and at the same time as provided for a
26 candidate elected at the election. The candidate must qualify for
27 the office in the same manner as provided for a candidate elected at

1 the election.

2 SECTION 3. Section 2.054(a), Election Code, is amended to
3 read as follows:

4 (a) In an election that may be subject to this subchapter, a
5 ~~[A]~~ person commits an offense if by intimidation or by means of
6 coercion the person influences or attempts to influence a person
7 to:

8 (1) not file an application for a place on the ballot
9 or a declaration of write-in candidacy; or

10 (2) withdraw as a candidate ~~[in an election that may be~~
11 ~~subject to this subchapter].~~

12 SECTION 4. Chapter 2, Election Code, is amended by adding
13 Subchapter D to read as follows:

14 SUBCHAPTER D. CANCELLATION OF ELECTIONS

15 Sec. 2.081. CANCELLATION OF MOOT MEASURE. (a) If an
16 authority that orders an election on a measure determines that the
17 action to be authorized by the voters may not be taken, regardless
18 of the outcome of the election, the authority may declare the
19 measure moot and remove the measure from the ballot.

20 (b) If a measure is declared moot under this section and is
21 removed from the ballot, the authority holding the election shall
22 post notice of the declaration during early voting by personal
23 appearance and on election day, at each polling place that would
24 have been used for the election on the measure.

25 Sec. 2.082. SPECIFIC AUTHORITY FOR CANCELLATION REQUIRED.

26 An authority that orders an election may cancel the election only if
27 the power to cancel the election is specifically provided by

1 statute.

2 SECTION 5. Section 4.004(a), Election Code, is amended to
3 read as follows:

- 4 (a) The notice of a general or special election must state:
- 5 (1) the nature and date of the election;
 - 6 (2) except as provided by Subsection (c), the location
7 of each polling place, including each early voting polling place;
 - 8 (3) the hours that the polls will be open; and
 - 9 (4) any other information required by other law.

10 SECTION 6. Section 16.031(a), Election Code, is amended to
11 read as follows:

- 12 (a) The registrar shall cancel a voter's registration
13 immediately on receipt of:
- 14 (1) notice under Section 13.072(b) or 15.021 or a
15 response under Section 15.053 that the voter's residence is outside
16 the county;
 - 17 (2) an abstract of the voter's death certificate under
18 Section 16.001(a) or an abstract of an application indicating that
19 the voter is deceased under Section 16.001(b);
 - 20 (3) an abstract of a final judgment of the voter's
21 mental incompetence, conviction of a felony, or disqualification
22 under Section 16.002, 16.003, or 16.004;
 - 23 (4) notice under Section 112.012 that the voter has
24 applied for a limited ballot in another county;
 - 25 (5) notice from a voter registration official in
26 another state that the voter has registered to vote outside this
27 state; [~~or~~]

1 (6) notice from the early voting clerk under Section
2 101.0041 that a federal postcard application submitted by an
3 applicant states a voting residence address located outside the
4 registrar's county; or

5 (7) notice from the secretary of state that the voter
6 has registered to vote in another county, as determined by the
7 voter's driver's license number or personal identification card
8 number issued by the Department of Public Safety or social security
9 number.

10 SECTION 7. The heading to Section 31.009, Election Code, is
11 amended to read as follows:

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

13 SECTION 8. Section 31.009(a), Election Code, is amended to
14 read as follows:

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

24 SECTION 9. Section 32.002, Election Code, is amended by
25 amending Subsection (c) and adding Subsection (g) to read as
26 follows:

27 (c) The presiding judge and alternate presiding judge must

1 be affiliated or aligned with different political parties, subject
2 to this subsection. Before July of each year, the county chair of a
3 political party whose candidate for governor received the highest
4 or second highest number of votes in the county cast for a candidate
5 nominated by a political party in the most recent gubernatorial
6 general election shall submit in writing to the commissioners court
7 a list of names of persons in order of preference for each precinct
8 who are eligible for appointment as an election judge. The county
9 chair may supplement the list of names of persons until the 20th day
10 before a general election or the 15th day before a special election
11 in case an appointed election judge becomes unable to serve. The
12 commissioners court shall appoint the first person meeting the
13 applicable eligibility requirements from the list submitted in
14 compliance with this subsection by the party with the highest
15 number of votes in the precinct as the presiding judge and the first
16 person meeting the applicable eligibility requirements from the
17 list submitted in compliance with this subsection by the party with
18 the second highest number of votes in the precinct as the alternate
19 presiding judge. The commissioners court may reject the list if the
20 persons whose names are submitted on the list are determined not to
21 meet the applicable eligibility requirements.

22 (g) If, since the most recent gubernatorial general
23 election, the boundaries of a precinct have been changed, the
24 number of votes received in the precinct by a political party's
25 gubernatorial candidate shall be estimated as provided by Section
26 141.070 for the purpose of determining which political party's
27 candidate for governor received the highest or second highest

1 number of votes in the county.

2 SECTION 10. Section 32.034, Election Code, is amended by
3 amending Subsection (b) and adding Subsection (f) to read as
4 follows:

5 (b) The county chair of a political party whose candidate
6 for governor received the highest or second highest number of votes
7 in the county cast for a candidate nominated by a political party in
8 the most recent gubernatorial general election may, not later than
9 the 25th day before a general election or the 10th day before a
10 special election to which Subsection (a) applies, submit to a
11 presiding judge a list containing the names of at least two persons
12 who are eligible for appointment as a clerk. If a timely list is
13 submitted, the presiding judge shall appoint at least one clerk
14 from the list, except as provided by Subsection (c).

15 (f) If, since the most recent gubernatorial general
16 election, the boundaries of a precinct have been changed, the
17 number of votes received in the precinct by a political party's
18 gubernatorial candidate shall be estimated as provided by Section
19 141.070 for the purpose of determining which political party's
20 candidate for governor received the highest or second highest
21 number of votes in the county.

22 SECTION 11. Section 85.001(e), Election Code, is amended to
23 read as follows:

24 (e) For an election held on the uniform election date in May
25 and any resulting runoff election, the period for early voting by
26 personal appearance begins on the 12th day before election day and
27 continues through the fourth day before election day.

1 SECTION 12. Chapter 101, Election Code, is amended by
2 adding Section 101.0041 to read as follows:

3 Sec. 101.0041. ACTION BY EARLY VOTING CLERK ON CERTAIN
4 APPLICATIONS. The early voting clerk shall notify the voter
5 registrar of a federal postcard application submitted by an
6 applicant that states a voting residence address located outside
7 the registrar's county.

8 SECTION 13. Section 123.035, Election Code, is amended by
9 adding Subsection (a-1) to read as follows:

10 (a-1) A contract for the acquisition of direct recording
11 electronic voting machine equipment may not prohibit the
12 transportation of the equipment across county lines, and a contract
13 provision that violates this subsection is void.

14 SECTION 14. Subchapter A, Chapter 125, Election Code, is
15 amended by adding Section 125.010 to read as follows:

16 Sec. 125.010. PRESENCE OF VOTING SYSTEM TECHNICIAN
17 AUTHORIZED. (a) In this section, "voting system technician" means
18 a person who as a vocation repairs, assembles, maintains, or
19 operates voting system equipment.

20 (b) On the request of the authority holding the election, a
21 voting system technician may be present at a polling place, a
22 meeting of the early voting ballot board, or a central counting
23 station for the purpose of repairing, assembling, maintaining, or
24 operating voting system equipment.

25 SECTION 15. Subchapter B, Chapter 141, Election Code, is
26 amended by adding Section 141.040 to read as follows:

27 Sec. 141.040. NOTICE OF DEADLINES. Not later than the 30th

1 day before the first day on which a candidate may file an
2 application for a place on the ballot under this subchapter, the
3 authority with whom the application must be filed shall post notice
4 of the dates of the filing period in a public place in a building in
5 which the authority has an office.

6 SECTION 16. Section 146.0301(a), Election Code, as amended
7 by Chapters 1107 and 1109, Acts of the 79th Legislature, Regular
8 Session, 2005, is reenacted to read as follows:

9 (a) A write-in candidate may not withdraw from the election
10 after the 67th day before election day.

11 SECTION 17. Subchapter B, Chapter 192, Election Code, is
12 amended by adding Section 192.0311 to read as follows:

13 Sec. 192.0311. DELIVERY OF CERTIFICATION OF NOMINEES FOR
14 2008 PRESIDENTIAL ELECTION. (a) Notwithstanding Section
15 192.031(2)(A), a political party is entitled to have the names of
16 the party's nominees for president and vice president of the United
17 States placed on the ballot in the 2008 presidential election if the
18 party's state chair delivers to the secretary of state a written
19 certification of the names of the party's nominees for president
20 and vice president on or before noon of the 60th day before the
21 election.

22 (b) This section expires December 31, 2008.

23 SECTION 18. Section 192.033, Election Code, is amended by
24 adding Subsection (d) to read as follows:

25 (d) Notwithstanding Subsection (b), the secretary of state
26 shall deliver the certification to the authority responsible for
27 having the official ballot prepared in each county not later than

1 the 60th day before election day for the 2008 presidential
2 election. This subsection expires December 31, 2008.

3 SECTION 19. Section 201.054(a), Election Code, is amended
4 to read as follows:

5 (a) Except as provided by Subsection (f), a candidate's
6 application for a place on a special election ballot must be filed
7 not later than:

8 (1) 5 p.m. of the 62nd [~~67th~~] day before election day,
9 if election day is on or after the 70th day after the date the
10 election is ordered;

11 (2) 5 p.m. of the 31st day before election day, if
12 election day is on or after the 36th day and before the 70th day
13 after the date the election is ordered; or

14 (3) 5 p.m. of a day fixed by the authority ordering the
15 election, which day must be not earlier than the fifth day after the
16 date the election is ordered and not later than the 20th day before
17 election day, if election day is before the 36th day after the date
18 the election is ordered.

19 SECTION 20. Sections 213.013(b) through (i), Election Code,
20 are amended to read as follows:

21 (b) In a recount of an election on an office, each candidate
22 for the office is entitled to be present at the recount and have
23 watchers [~~representatives~~] present in the number corresponding to
24 the number of counting teams designated for the recount. If only
25 one counting team is designated or the recount is conducted on
26 automatic tabulating equipment, each candidate is entitled to two
27 watchers [~~representatives~~].

1 (c) In a recount of an election on an office for which a
2 political party has a nominee or for which a candidate is aligned
3 with a political party, the party is entitled to have watchers
4 [~~representatives~~] present in the same number prescribed for
5 candidates under Subsection (b).

6 (d) In a recount of an election on a measure, watchers
7 [~~representatives~~] may be appointed by the campaign treasurer or
8 assistant campaign treasurer of a specific-purpose political
9 committee that supports or opposes the measure in the number
10 corresponding to the number of counting teams designated for the
11 recount. If only one counting team is designated or the recount is
12 conducted on automatic tabulating equipment, each eligible
13 specific-purpose political committee is entitled to two watchers
14 [~~representatives~~].

15 (e) A watcher [~~representative~~] appointed to serve at a
16 recount must deliver a certificate of appointment to the recount
17 committee chair at the time the watcher [~~representative~~] reports
18 for service. A watcher [~~representative~~] who presents himself or
19 herself for service at any time immediately before or during the
20 recount and submits a proper certificate of appointment must be
21 accepted for service unless the number of appointees to which the
22 appointing authority is entitled have already been accepted.

23 (f) The certificate must be in writing and must include:

24 (1) the printed name and the signature of the watcher
25 [~~representative~~];

26 (2) the election subject to the recount;

27 (3) the time and place of the recount;

1 (4) the measure, candidate, or political party being
2 represented;

3 (5) the signature and the printed name of the person
4 making the appointment; and

5 (6) an indication of the capacity in which the
6 appointing authority is acting.

7 (g) If the watcher [~~representative~~] is accepted for
8 service, the recount committee chair shall keep the certificate and
9 deliver it to the recount coordinator after the recount for
10 preservation under Section 211.007. If the watcher
11 [~~representative~~] is not accepted for service, the recount committee
12 chair shall return the certificate to the watcher [~~representative~~]
13 with a signed statement of the reason for the rejection.

14 (h) Each person entitled to be present at a recount is
15 entitled to observe any activity conducted in connection with the
16 recount. The person is entitled to sit or stand conveniently near
17 the officers conducting the observed activity and near enough to an
18 officer who is announcing the votes or examining or processing the
19 ballots to verify that the ballots are counted or processed
20 correctly or to an officer who is tallying the votes to verify that
21 they are tallied correctly. Rules concerning a watcher's
22 [~~representative's~~] rights, duties, and privileges are otherwise
23 the same as those prescribed by this code for poll watchers to the
24 extent they can be made applicable.

25 (i) No mechanical or electronic means of recording images or
26 sound are allowed inside the room in which the recount is conducted,
27 or in any hallway or corridor in the building in which the recount

1 is conducted within 30 feet of the entrance to the room, while the
2 recount is in progress. However, on request of a person entitled to
3 appoint watchers [~~representatives~~] to serve at the recount, the
4 recount committee chair shall permit the person to photocopy under
5 the chair's supervision any ballot, including any supporting
6 materials, challenged by the person or person's watcher
7 [~~representative~~]. The person must pay a reasonable charge for
8 making the copies and, if no photocopying equipment is available,
9 may supply that equipment at the person's expense. The person shall
10 provide a copy on request to another person entitled to appoint
11 watchers [~~representatives~~] to serve at the recount.

12 SECTION 21. Sections 271.002(a), (b), and (c), Election
13 Code, are amended to read as follows:

14 (a) If the elections ordered by the authorities of two or
15 more political subdivisions are to be held on the same day in all or
16 part of the same county [~~territory~~], the governing bodies of the
17 political subdivisions may enter into an agreement to hold the
18 elections jointly in the election precincts that can be served by
19 common polling places, subject to Section 271.003.

20 (b) If an election ordered by the governor and the elections
21 ordered by the authorities of one or more political subdivisions
22 are to be held on the same day in all or part of the same county
23 [~~territory~~], the commissioners court of a county in which the
24 election ordered by the governor is to be held and the governing
25 bodies of the other political subdivisions may enter into an
26 agreement to hold the elections jointly in the election precincts
27 that can be served by common polling places, subject to Section

1 271.003.

2 (c) If another law requires two or more political
3 subdivisions to hold a joint election, the governing body of any
4 other political subdivision holding an election on the same day in
5 all or part of the same county [~~territory~~] in which the joint
6 election is to be held may enter into an agreement to participate in
7 the joint election with the governing bodies of the political
8 subdivisions holding the joint election.

9 SECTION 22. (a) The changes in law made by Sections 1-6,
10 9-12, and 14-21 of this Act apply only to an election ordered on or
11 after September 1, 2007.

12 (b) Section 123.035(a-1), Election Code, as added by this
13 Act, applies only to a contract executed on or after September 1,
14 2007. A contract executed before that date is governed by the law
15 in effect when the contract was executed, and the former law is
16 continued in effect for that purpose.

17 SECTION 23. (a) Except as provided by Subsection (b) of
18 this section, this Act takes effect September 1, 2007.

19 (b) Sections 7 and 8 of this Act take effect immediately if
20 this Act receives a vote of two-thirds of all the members of each
21 house, as provided by Section 39, Article III, Texas Constitution.
22 If this Act does not receive the vote necessary for immediate
23 effect, Sections 7 and 8 of this Act take effect September 1, 2007.