

By: Duncan

S.B. No. 1646

A BILL TO BE ENTITLED

AN ACT

relating to certain election practices and procedures.

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

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

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

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

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

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

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

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

Sec. 2.053. ACTION ON CERTIFICATION. (a) On receipt of the certification, the governing body of the political subdivision by

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

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

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

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

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

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

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

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

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

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

13 SUBCHAPTER D. CANCELLATION OF ELECTIONS

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

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

24 Sec. 2.082. SPECIFIC AUTHORITY FOR CANCELLATION REQUIRED.
25 An authority that orders an election may cancel the election only if
26 the power to cancel the election is specifically provided by
27 statute.

1 SECTION 5. Section 3.006, Election Code, is amended to read
2 as follows:

3 Sec. 3.006. CONTENTS OF ELECTION ORDER. In addition to any
4 other elements required to be included in an election order by other
5 law, each election order must state the date of the election, ~~and~~
6 the offices or measures to be voted on at the election, and the
7 location of each early voting polling place for the election.

8 SECTION 6. Sections 4.003(a) and (b), Election Code, are
9 amended to read as follows:

10 (a) Except as provided by Subsection (c), notice of an
11 election must be given by any one or more of the following methods:

12 (1) by publishing the notice at least once, not
13 earlier than the 40th ~~[30th]~~ day or later than the 21st ~~[10th]~~ day
14 before election day:

15 (A) in a newspaper published in the territory
16 that is covered by the election and is in the jurisdiction of the
17 authority responsible for giving the notice; or

18 (B) in a newspaper of general circulation in the
19 territory if none is published in the jurisdiction of the authority
20 responsible for giving the notice;

21 (2) by posting, not later than the 21st day before
22 election day, a copy of the notice at a public place in each
23 election precinct that is in the jurisdiction of the authority
24 responsible for giving the notice; or

25 (3) by mailing, not later than the 21st ~~[10th]~~ day
26 before election day, a copy of the notice to each registered voter
27 of the territory that is covered by the election and is in the

1 jurisdiction of the authority responsible for giving the notice.

2 (b) In addition to any other notice given for an election
3 under Subsection (a), not later than the 21st day before election
4 day, the authority responsible for giving notice of the election
5 shall post a copy of the notice, which must include the location of
6 each polling place, on the bulletin board used for posting notices
7 of the meetings of the governing body of the political subdivision
8 that the authority serves. For each precinct that is combined to
9 form a consolidated precinct under Section 42.008, not later than
10 the 21st [~~10th~~] day before election day, the authority shall also
11 post, at the polling place used in the preceding general election,
12 notice of the precinct's consolidation and the location of the
13 polling place in the consolidated precinct. A notice posted under
14 this subsection must remain posted continuously through election
15 day.

16 SECTION 7. Section 4.004(a), Election Code, is amended to
17 read as follows:

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

24 SECTION 8. Section 16.031(a), Election Code, is amended to
25 read as follows:

26 (a) The registrar shall cancel a voter's registration
27 immediately on receipt of:

1 (1) notice under Section 13.072(b) or 15.021 or a
2 response under Section 15.053 that the voter's residence is outside
3 the county;

4 (2) an abstract of the voter's death certificate under
5 Section 16.001(a) or an abstract of an application indicating that
6 the voter is deceased under Section 16.001(b);

7 (3) an abstract of a final judgment of the voter's
8 mental incompetence, conviction of a felony, or disqualification
9 under Section 16.002, 16.003, or 16.004;

10 (4) notice under Section 112.012 that the voter has
11 applied for a limited ballot in another county;

12 (5) notice from a voter registration official in
13 another state that the voter has registered to vote outside this
14 state; ~~or~~

15 (6) notice from the early voting clerk under Section
16 101.0041 that a federal postcard application submitted by an
17 applicant states a voting residence address located outside the
18 registrar's county; or

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

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 33.058(a), Election Code, is amended to
23 read as follows:

24 (a) While on duty, a watcher may not:
25 (1) converse with an election officer regarding the
26 election, except to call attention to an irregularity or violation
27 of law;

- 1 (2) converse with a voter; ~~[or]~~
- 2 (3) communicate in any manner with a voter regarding
- 3 the election;
- 4 (4) use a mobile telephone; or
- 5 (5) use any mechanical or electronic means of
- 6 recording images or sound.

7 SECTION 12. Section 41.0052(a), Election Code, is amended

8 to read as follows:

9 (a) The governing body of a political subdivision other than

10 a county may, not later than December 31, 2007 [~~2005~~], change the

11 date on which it holds its general election for officers to another

12 authorized uniform election date.

13 SECTION 13. Section 85.001(e), Election Code, is amended to

14 read as follows:

15 (e) For an election held on the uniform election date in May

16 and any resulting runoff election, the period for early voting by

17 personal appearance begins on the 12th day before election day and

18 continues through the fourth day before election day.

19 SECTION 14. Section 86.006(f), Election Code, is amended to

20 read as follows:

21 (f) A person commits an offense if the person knowingly

22 possesses an official ballot or official carrier envelope provided

23 under this code to another. Unless the person possessed the ballot

24 or carrier envelope with intent to defraud the voter or the election

25 authority, it is an exception to the application of [~~affirmative~~

26 ~~defense to prosecution under~~] this subsection that the person, on

27 the date of the offense, was:

1 (1) related to the voter within the second degree by
2 affinity or the third degree by consanguinity, as determined under
3 Subchapter B, Chapter 573, Government Code;

4 (2) registered to vote at the same address as the
5 voter;

6 (3) an early voting clerk or a deputy early voting
7 clerk;

8 (4) a person who possesses the carrier envelope in
9 order to deposit the envelope in the mail or with a common or
10 contract carrier and who provides the information required by
11 Section 86.0051(b) in accordance with that section;

12 (5) an employee of the United States Postal Service
13 working in the normal course of the employee's authorized duties;
14 or

15 (6) a common or contract carrier working in the normal
16 course of the carrier's authorized duties if the official ballot is
17 sealed in an official carrier envelope that is accompanied by an
18 individual delivery receipt for that particular carrier envelope.

19 SECTION 15. Chapter 101, Election Code, is amended by
20 adding Section 101.0041 to read as follows:

21 Sec. 101.0041. ACTION BY EARLY VOTING CLERK ON CERTAIN
22 APPLICATIONS. The early voting clerk shall notify the voter
23 registrar of a federal postcard application submitted by an
24 applicant that states a voting residence address located outside
25 the registrar's county.

26 SECTION 16. Section 123.035, Election Code, is amended by
27 adding Subsection (a-1) to read as follows:

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

5 SECTION 17. Subchapter A, Chapter 125, Election Code, is
6 amended by adding Section 125.010 to read as follows:

7 Sec. 125.010. PRESENCE OF VOTING SYSTEM TECHNICIAN
8 AUTHORIZED. (a) In this section, "voting system technician" means
9 a person who as a vocation repairs, assembles, maintains, or
10 operates voting system equipment.

11 (b) On the request of the authority holding the election, a
12 voting system technician may be present at a polling place, a
13 meeting of the early voting ballot board, or a central counting
14 station for the purpose of repairing, assembling, maintaining, or
15 operating voting system equipment.

16 SECTION 18. Subchapter B, Chapter 141, Election Code, is
17 amended by adding Section 141.040 to read as follows:

18 Sec. 141.040. NOTICE OF DEADLINES. Not later than the 30th
19 day before the first day on which a candidate may file an
20 application for a place on the ballot under this subchapter, the
21 authority with whom the application must be filed shall post notice
22 of the dates of the filing period in a public place in a building in
23 which the authority has an office.

24 SECTION 19. Section 146.0301(a), Election Code, as amended
25 by Chapters 1107 and 1109, Acts of the 79th Legislature, Regular
26 Session, 2005, is reenacted to read as follows:

27 (a) A write-in candidate may not withdraw from the election

1 after the 67th day before election day.

2 SECTION 20. Section 201.054(a), Election Code, is amended
3 to read as follows:

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

7 (1) 5 p.m. of the 62nd [~~67th~~] day before election day,
8 if election day is on or after the 70th day after the date the
9 election is ordered;

10 (2) 5 p.m. of the 31st day before election day, if
11 election day is on or after the 36th day and before the 70th day
12 after the date the election is ordered; or

13 (3) 5 p.m. of a day fixed by the authority ordering the
14 election, which day must be not earlier than the fifth day after the
15 date the election is ordered and not later than the 20th day before
16 election day, if election day is before the 36th day after the date
17 the election is ordered.

18 SECTION 21. Sections 213.013(b) through (i), Election Code,
19 are amended to read as follows:

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

27 (c) In a recount of an election on an office for which a

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

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

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

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

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

25 (2) the election subject to the recount;

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

27 (4) the measure, candidate, or political party being

1 represented;

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

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

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

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

24 (i) No mechanical or electronic means of recording images or
25 sound are allowed inside the room in which the recount is conducted,
26 or in any hallway or corridor in the building in which the recount
27 is conducted within 30 feet of the entrance to the room, while the

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

11 SECTION 22. Sections 271.002(a), (b), and (c), Election
12 Code, are amended to read as follows:

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

19 (b) If an election ordered by the governor and the elections
20 ordered by the authorities of one or more political subdivisions
21 are to be held on the same day in all or part of the same county
22 [~~territory~~], the commissioners court of a county in which the
23 election ordered by the governor is to be held and the governing
24 bodies of the other political subdivisions may enter into an
25 agreement to hold the elections jointly in the election precincts
26 that can be served by common polling places, subject to Section
27 271.003.

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

8 SECTION 23. Section 61.012(b), Election Code, is repealed.

9 SECTION 24. (a) Except as otherwise provided by this
10 section, the changes in law made by this Act apply only to an
11 election ordered on or after September 1, 2007.

12 (b) The governing body of a political subdivision other than
13 a county may change an election date as authorized by Section
14 41.0052(a), Election Code, as amended by this Act, at any time on or
15 after September 1, 2007.

16 (c) The change in law made by this Act to Section 86.006(f),
17 Election Code, as amended by this Act, applies only to conduct
18 described by that section that occurs on or after September 1, 2007.
19 Conduct occurring before that date is governed by the law in effect
20 when the conduct occurred, and the former law is continued in effect
21 for that purpose.

22 (d) Section 123.035(a-1), Election Code, as added by this
23 Act, applies only to a contract executed on or after September 1,
24 2007. A contract executed before that date is governed by the law
25 in effect when the contract was executed, and the former law is
26 continued in effect for that purpose.

27 SECTION 25. This Act takes effect September 1, 2007.