

By: Duncan

S.B. No. 1776

Substitute the following for S.B. No. 1776:

By: Berman

C.S.S.B. No. 1776

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the requirements for accessibility to voting equipment
3 by persons with disabilities in certain elections.

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

5 SECTION 1. LEGISLATIVE INTENT. It is the intent of the
6 legislature that in creating the formula for the finding of an undue
7 burden in Subsection (c), Section 61.013, Election Code, as added
8 by this Act, the legislature took into account the size of the
9 political subdivision holding the election, which affects the
10 amount of available funds and election workforce, and the costs of
11 voting machine systems compared to previous accommodations for
12 voters with disabilities.

13 SECTION 2. AMENDMENT. Subsection (a), Section 61.012,
14 Election Code, is amended to read as follows:

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

18 (1) complies with:

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

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

24 (C) the requirements for accessibility under 42

1 U.S.C. Section 15481(a)(3) and its subsequent amendments; and

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

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

6 Sec. 61.013. ACCESS BY PERSONS WITH DISABILITIES:
7 ELECTIONS OF CERTAIN POLITICAL SUBDIVISIONS. (a) For an election
8 other than an election of a political subdivision that is held
9 jointly with another election in which a federal office appears on
10 the ballot, the political subdivision is not required to meet the
11 requirements of Section 61.012(a)(1)(C) if the political
12 subdivision:

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

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

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

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

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

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

5 (C) provides a mobile voting station that meets
6 the requirements for accessibility under 42 U.S.C. Section
7 15481(a)(3) that during the period for early voting by personal
8 appearance is deployed at least once at each polling place used for
9 early voting by personal appearance; or

10 (5) is located in a county described by Subdivisions
11 (1)-(4) and meets the same requirements as the county in which the
12 political subdivision is located.

13 (b) A voter with a disability that desires a reasonable
14 accommodation to vote in an election of a county described by
15 Subsection (a)(1) or a political subdivision located in that county
16 shall make a request for the accommodation with the early voting
17 clerk of the county or political subdivision not later than the 21st
18 day before the date of the election. On receipt of the request, the
19 early voting clerk shall make a reasonable accommodation to allow
20 the voter to cast a vote.

21 (c) A county or political subdivision may make a showing of
22 undue burden under Subsection (a)(4)(A) by filing an application
23 with the secretary of state not later than the 90th day before the
24 date of the election that states the reasons that compliance would
25 constitute an undue burden. A showing of an undue burden may be
26 satisfied by proof that the election costs associated with
27 compliance with Section 61.012(a)(1)(C) constitute a significant

1 expense for the county or political subdivision and reflect an
2 increase of at least 25 percent in the costs of holding an election
3 as compared to the costs of the last general election held by the
4 county or political subdivision before January 1, 2006. Not later
5 than the 20th day after the date of receiving an application under
6 this section, the secretary of state shall determine whether
7 compliance with Section 61.012(a)(1)(C) is an undue burden for the
8 county or political subdivision.

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

13 (1) provide notice to the secretary of state of that
14 intent not later than the 90th day before the date of the election;
15 and

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

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

25 (1) to be considered located in the county that
26 contains the greatest number of registered voters of the political
27 subdivision; or

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

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

6 SECTION 4. REPEALER. Subsection (b), Section 61.012,
7 Election Code, is repealed.

8 SECTION 5. EFFECTIVE DATE. This Act takes effect September
9 1, 2007.