

1-1 By: Duncan S.B. No. 1776
1-2 (In the Senate - Filed March 9, 2007; March 21, 2007, read
1-3 first time and referred to Committee on State Affairs;
1-4 April 18, 2007, reported adversely, with favorable Committee
1-5 Substitute by the following vote: Yeas 9, Nays 0; April 18, 2007,
1-6 sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR S.B. No. 1776 By: Duncan

1-8 A BILL TO BE ENTITLED
1-9 AN ACT

1-10 relating to the requirements for accessibility to voting equipment
1-11 by persons with disabilities in certain elections.

1-12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-13 SECTION 1. LEGISLATIVE INTENT. It is the intent of the
1-14 legislature that in creating the formula for the finding of an undue
1-15 burden in Subsection (c), Section 61.013, Election Code, as added
1-16 by this Act, the legislature took into account the size of the
1-17 political subdivision holding the election, which affects the
1-18 amount of available funds and election workforce, and the costs of
1-19 voting machine systems compared to previous accommodations for
1-20 voters with disabilities.

1-21 SECTION 2. AMENDMENT. Subsection (a), Section 61.012,
1-22 Election Code, is amended to read as follows:

1-23 (a) Except as provided by Section 61.013 ~~[Not later than~~
1-24 ~~January 1, 2006]~~, each polling place must provide at least one
1-25 voting station that:

1-26 (1) complies with:

1-27 (A) Section 504 of the federal Rehabilitation Act
1-28 of 1973 (29 U.S.C. Section 794) and its subsequent amendments;

1-29 (B) ~~and~~ Title II of the federal Americans with
1-30 Disabilities Act (42 U.S.C. Section 12131 et seq.) and its
1-31 subsequent amendments; and

1-32 (C) the requirements for accessibility under 42
1-33 U.S.C. Section 15481(a)(3) and its subsequent amendments; and

1-34 (2) provides a practical and effective means for
1-35 voters with physical disabilities to cast a secret ballot.

1-36 SECTION 3. AMENDMENT. Subchapter A, Chapter 61, Election
1-37 Code, is amended by adding Section 61.013 to read as follows:

1-38 Sec. 61.013. ACCESS BY PERSONS WITH DISABILITIES:
1-39 ELECTIONS OF CERTAIN POLITICAL SUBDIVISIONS. (a) For an election
1-40 other than an election of a political subdivision that is held
1-41 jointly with another election in which a federal office appears on
1-42 the ballot, the political subdivision is not required to meet the
1-43 requirements of Section 61.012(a)(1)(C) if the political
1-44 subdivision:

1-45 (1) is a county with a population of less than 2,000;

1-46 (2) is a county with a population of 2,000 or more but
1-47 less than 5,000, and the county provides at least one voting station
1-48 that meets the requirements for accessibility under 42 U.S.C.
1-49 Section 15481(a)(3) on election day;

1-50 (3) is a county with a population of 5,000 or more but
1-51 less than 10,000, and the county provides at least one voting
1-52 station that meets the requirements for accessibility under 42
1-53 U.S.C. Section 15481(a)(3) on election day and during the period
1-54 for early voting by personal appearance;

1-55 (4) is a county with a population of 10,000 or more but
1-56 less than 20,000, and the county:

1-57 (A) makes a showing in the manner provided by
1-58 Subsection (c) that compliance with Section 61.012(a)(1)(C)
1-59 constitutes an undue burden on the county;

1-60 (B) provides at least one voting station that
1-61 meets the requirements for accessibility under 42 U.S.C. Section
1-62 15481(a)(3) on election day and during the period for early voting
1-63 by personal appearance; and

2-1 (C) provides a mobile voting station that meets
2-2 the requirements for accessibility under 42 U.S.C. Section
2-3 15481(a)(3) that during the period for early voting by personal
2-4 appearance is deployed at least once at each polling place used for
2-5 early voting by personal appearance; or

2-6 (5) is located in a county described by Subdivisions
2-7 (1)-(4) and meets the same requirements as the county in which the
2-8 political subdivision is located.

2-9 (b) A voter with a disability that desires a reasonable
2-10 accommodation to vote in an election of a county described by
2-11 Subsection (a)(1) or a political subdivision located in that county
2-12 shall make a request for the accommodation with the early voting
2-13 clerk of the county or political subdivision not later than the 21st
2-14 day before the date of the election. On receipt of the request, the
2-15 early voting clerk shall make a reasonable accommodation to allow
2-16 the voter to cast a vote.

2-17 (c) A county or political subdivision may make a showing of
2-18 undue burden under Subsection (a)(4)(A) by filing an application
2-19 with the secretary of state not later than the 90th day before the
2-20 date of the election that states the reasons that compliance would
2-21 constitute an undue burden. A showing of an undue burden may be
2-22 satisfied by proof that the election costs associated with
2-23 compliance with Section 61.012(a)(1)(C) constitute a significant
2-24 expense for the county or political subdivision and reflect an
2-25 increase of at least 25 percent in the costs of holding an election
2-26 as compared to the costs of the last general election held by the
2-27 county or political subdivision before January 1, 2006. Not later
2-28 than the 20th day after the date of receiving an application under
2-29 this section, the secretary of state shall determine whether
2-30 compliance with Section 61.012(a)(1)(C) is an undue burden for the
2-31 county or political subdivision.

2-32 (d) A county or political subdivision that intends to use
2-33 this section to provide fewer voting stations that meet the
2-34 requirements for accessibility under 42 U.S.C. Section 15481(a)(3)
2-35 than required by Section 61.012(a)(1)(C) must:

2-36 (1) provide notice to the secretary of state of that
2-37 intent not later than the 90th day before the date of the election;
2-38 and

2-39 (2) for a county described by Subsection (a)(2), (3),
2-40 or (4), or a political subdivision located in such a county, publish
2-41 notice of the location of each voting station that meets the
2-42 requirements for accessibility under 42 U.S.C. Section 15481(a)(3)
2-43 in a newspaper of general circulation in the county or political
2-44 subdivision not later than the 15th day before the date of the start
2-45 of the period of early voting by personal appearance.

2-46 (e) For purposes of this section, if a political subdivision
2-47 is located in:

2-48 (1) more than one but fewer than four counties, the
2-49 political subdivision is considered located in the county that
2-50 contains the greatest number of registered voters of the political
2-51 subdivision; and

2-52 (2) four or more counties, each portion of the
2-53 political subdivision located in a different county is considered a
2-54 separate political subdivision.

2-55 (f) The secretary of state shall prescribe procedures and
2-56 adopt rules as necessary to implement this section.

2-57 SECTION 4. REPEALER. Subsection (b), Section 61.012,
2-58 Election Code, is repealed.

2-59 SECTION 5. EFFECTIVE DATE. This Act takes effect September
2-60 1, 2007.

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