

By: Berman

H.B. No. 2802

A BILL TO BE ENTITLED

AN ACT

relating to the administration of a recount of votes cast in an election.

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

SECTION 1. Section 212.112, Election Code, is amended by amending Subsection (a) and adding Subsection (e) to read as follows:

(a) Subject to Subsections [~~Subsection~~] (d) and (e), the amount of the recount deposit is determined by the number of precincts for which a recount is requested in the document that the deposit accompanies, in accordance with the following schedule:

(1) five times the federal minimum wage [~~maximum hourly rate of pay for election judges~~], for a precinct in which:

(A) regular paper ballots were used;

(B) electronic voting system ballots, other than printed images of ballots cast using direct recording electronic voting machines, are to be recounted manually; or

(C) both write-in votes and voting system votes are to be recounted;

(2) 10 times the federal minimum wage [~~maximum hourly rate of pay for election judges~~], for a precinct in which printed images of ballots cast using direct recording electronic voting machines are to be recounted manually;

(3) three times the federal minimum wage [~~maximum~~

1 ~~hourly rate of pay for election judges~~], for a precinct in which
2 ballots are to be recounted by automatic tabulating equipment and
3 no write-in votes are to be recounted; and

4 (4) two times the federal minimum wage [~~maximum hourly~~
5 ~~rate of pay for election judges~~], for a precinct in which:

6 (A) voting machines were used and no write-in
7 votes are to be recounted; or

8 (B) only the write-in votes cast in connection
9 with a voting system are to be recounted.

10 (e) For a precinct described by more than one subdivision of
11 Subsection (a), the highest amount that would apply under
12 Subsection (a) applies to the precinct.

13 SECTION 2. Sections 213.013(b), (c), (d), (e), (f), (g),
14 (h), and (i), Election Code, are amended to read as follows:

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

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

27 (d) In a recount of an election on a measure, watchers

1 [~~representatives~~] may be appointed by the campaign treasurer or
2 assistant campaign treasurer of a specific-purpose political
3 committee that supports or opposes the measure in the number
4 corresponding to the number of counting teams designated for the
5 recount. If only one counting team is designated or the recount is
6 conducted on automatic tabulating equipment, each eligible
7 specific-purpose political committee is entitled to two watchers
8 [~~representatives~~].

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

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

18 (1) the printed name and the signature of the watcher
19 [~~representative~~];

20 (2) the election subject to the recount;

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

22 (4) the measure, candidate, or political party being
23 represented;

24 (5) the signature and the printed name of the person
25 making the appointment; and

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

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

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

19 (i) No mechanical or electronic means of recording images or
20 sound are allowed inside the room in which the recount is conducted,
21 or in any hallway or corridor in the building in which the recount
22 is conducted within 30 feet of the entrance to the room, while the
23 recount is in progress. However, on request of a person entitled to
24 appoint watchers [~~representatives~~] to serve at the recount, the
25 recount committee chair shall permit the person to photocopy under
26 the chair's supervision any ballot, including any supporting
27 materials, challenged by the person or person's watcher

1 ~~[representative]~~. The person must pay a reasonable charge for
2 making the copies and, if no photocopying equipment is available,
3 may supply that equipment at the person's expense. The person shall
4 provide a copy on request to another person entitled to appoint
5 watchers ~~[representatives]~~ to serve at the recount.

6 SECTION 3. Section 213.016, Election Code, is amended to
7 read as follows:

8 Sec. 213.016. PRINTING IMAGES OF BALLOTS CAST USING DIRECT
9 RECORDING ELECTRONIC VOTING MACHINES. During any printing of
10 images of ballots cast using direct recording electronic voting
11 machines for the purpose of a recount, the full recount committee is
12 not required to be present. The recount committee chair shall
13 determine how many committee members must be present during the
14 printing of the images. Each candidate is entitled to be present
15 and to have representatives present during the printing of the
16 images in the same number as ~~[prescribed by]~~ Section 213.013(b)
17 prescribes for watchers for a recount ~~[during the printing of the~~
18 ~~images]~~.

19 SECTION 4. The changes in law made by this Act apply only to
20 an election ordered on or after the effective date of this Act. An
21 election ordered before the effective date of this Act is governed
22 by the law in effect when the election was ordered, and the former
23 law is continued in effect for that purpose.

24 SECTION 5. This Act takes effect September 1, 2009.