

By: Gallego

H.B. No. 3134

A BILL TO BE ENTITLED

AN ACT

relating to the appointment of election judges and clerks.

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

SECTION 1. Sections 32.002(c), (d), and (e), Election Code, are amended to read as follows:

(c) The presiding judge and alternate presiding judge must be affiliated or aligned with different political parties, subject to this subsection. Before July of each year, the county chair of a political party whose candidate for governor received the highest or second highest number of votes in the county in the most recent gubernatorial general election shall submit in writing to the commissioners court a list of names of persons in order of preference for each precinct who are eligible for appointment as an election judge. The county chair may supplement the list of names of persons until the 20th day before a general election or the 15th day before a special election in case an appointed election judge becomes unable to serve. The commissioners court may ~~shall~~ appoint a ~~the first~~ person meeting the applicable eligibility requirements from the list submitted in compliance with this subsection by the party with the highest number of votes in the precinct as the presiding judge and a ~~the first~~ person meeting the applicable eligibility requirements from the list submitted in compliance with this subsection by the party with the second highest number of votes in the precinct as the alternate presiding

1 judge. The commissioners court may reject the list if the persons
2 whose names are submitted on the list are determined not to meet the
3 applicable eligibility requirements.

4 (d) The county clerk may [~~, after making a reasonable effort~~
5 ~~to~~] consult with the party chair of the appropriate political party
6 or parties, and shall submit to the commissioners court a list of
7 names of persons eligible for appointment as presiding judge and
8 alternate presiding judge for each precinct in which an appointment
9 is not made under Subsection (c). The commissioners court shall
10 appoint an eligible person from the list who is affiliated or
11 aligned with the appropriate party, if available.

12 (e) The commissioners court shall fill a vacancy in the
13 position of presiding judge or alternate presiding judge for the
14 remainder of the unexpired term. An appointment to fill a vacancy
15 may be made at any regular or special term of court. The county
16 clerk should notify the county chair of the same political party
17 with which the original judge was affiliated or aligned of a vacancy
18 not [~~Not~~] later than 48 hours after the county clerk becomes aware
19 of the [~~a~~] vacancy [~~, the county clerk shall notify the county chair~~
20 ~~of the same political party with which the original judge was~~
21 ~~affiliated or aligned of the vacancy~~]. If the county clerk
22 notifies [~~Not later than the fifth day after the date of~~
23 ~~notification of the vacancy,~~] the county chair of the same
24 political party with which the original judge was affiliated or
25 aligned of the vacancy, the county chair may [~~shall~~] submit to the
26 commissioners court in writing the name of a person who is eligible
27 for the appointment not later than the fifth day after the date of

1 notification of the vacancy. If a name is submitted in compliance
2 with this subsection, the commissioners court may [~~shall~~] appoint
3 that person to the unexpired term or [~~. If a name is not submitted~~
4 ~~in compliance with this subsection, the county clerk shall submit~~
5 ~~to the commissioners court a list of names of persons eligible as an~~
6 ~~appointee for the unexpired term. The commissioners court shall]~~
7 appoint an eligible person who is affiliated or aligned with the
8 same party, if available, from a list of names of persons eligible
9 as an appointee for the unexpired term submitted by the county clerk
10 [~~the list who is affiliated or aligned with the same party, if~~
11 ~~available~~].

12 SECTION 2. Sections 32.034(b), (c), (d), and (e), Election
13 Code, are amended to read as follows:

14 (b) The county chair of a political party whose candidate
15 for governor received the highest or second highest number of votes
16 in the county in the most recent gubernatorial general election
17 may, not later than the 45th [~~25th~~] day before a general election or
18 the 20th [~~10th~~] day before a special election to which Subsection
19 (a) applies, submit to a presiding judge a list containing the names
20 of at least two persons who are eligible for appointment as a clerk.
21 If a timely list is submitted, the presiding judge shall appoint at
22 least one clerk from the list, except as provided by Subsection (c).

23 (c) If only one additional clerk is to be appointed for an
24 election in which the alternate presiding judge will serve as a
25 clerk, the clerk may [~~shall~~] be appointed from the list of a
26 political party with which neither the presiding judge nor the
27 alternate judge is affiliated or aligned, if such a list is

1 submitted. If two such lists are submitted, the presiding judge may
2 [~~shall~~] decide from which list the appointment will be made. If
3 such a list is not submitted, the presiding judge is not required to
4 make an appointment from any list.

5 (d) The presiding judge may [~~shall~~] make an appointment
6 under this section not later than the fifth day after the date the
7 judge receives the list and may notify [~~shall deliver written~~
8 ~~notification of the appointment to~~] the appropriate county chair.

9 (e) If a presiding judge has not been appointed at the time
10 the county chair of a political party is required to submit a list
11 of names for the appointment of a clerk under this section, the list
12 of names shall be submitted to the county chair of the political
13 party whose candidate for governor received the most votes in the
14 precinct in the most recent gubernatorial election and to the
15 commissioners court. The county chair, or the commissioners court
16 in a county without a county chair, may [~~shall~~] appoint clerks from
17 the list in the same manner provided for a presiding judge to
18 appoint clerks by this section.

19 SECTION 3. Section 32.051, Election Code, is amended by
20 amending Subsection (a) and adding Subsection (f) to read as
21 follows:

22 (a) Except as provided by Subsection (b), [or] (e), or (f),
23 to be eligible to serve as a judge of an election precinct, a person
24 must:

- 25 (1) be a qualified voter of the precinct; and
26 (2) for a regular county election precinct for which
27 an appointment is made by the commissioners court, satisfy any

1 additional eligibility requirements prescribed by written order of
2 the commissioners court.

3 (f) A person who has been placed on probation, deferred
4 adjudication, or community supervision for a misdemeanor offense is
5 not eligible to serve as a judge of an election precinct during the
6 term of the probation, deferred adjudication, or community
7 supervision.

8 SECTION 4. The changes in law made by this Act apply only to
9 an election judge or clerk appointed for an election ordered on or
10 after the effective date of this Act.

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