

By: Smith of Tarrant

H.B. No. 3830

A BILL TO BE ENTITLED

1 AN ACT
2 relating to certain election practices and procedures; providing
3 penalties.

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

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

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

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

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

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

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

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

24 Sec. 2.053. ACTION ON CERTIFICATION. (a) On receipt of the

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

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

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

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

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

1 the election.

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

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

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

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

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

14 SUBCHAPTER D. CANCELLATION OF ELECTIONS

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

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

25 Sec. 2.082. SPECIFIC AUTHORITY FOR CANCELLATION REQUIRED.

26 An authority that orders an election may cancel the election only if
27 the power to cancel the election is specifically provided by

1 statute.

2 SECTION 5. Section 16.031(a), Election Code, is amended to
3 read as follows:

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

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

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

12 (3) an abstract of a final judgment of the voter's
13 total mental incapacity, partial mental incapacity without the
14 right to vote, conviction of a felony, or disqualification under
15 Section 16.002, 16.003, or 16.004;

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

18 (5) notice from a voter registration official in
19 another state that the voter has registered to vote outside this
20 state; ~~or~~

21 (6) notice from the early voting clerk under Section
22 101.0041 that a federal postcard application submitted by an
23 applicant states a voting residence address located outside the
24 registrar's county; or

25 (7) notice from the secretary of state that the voter
26 has registered to vote in another county, as determined by the
27 voter's driver's license number or personal identification card

1 number issued by the Department of Public Safety or social security
2 number.

3 SECTION 6. Subchapter A, Chapter 61, Election Code, is
4 amended by adding Section 61.016 to read as follows:

5 Sec. 61.016. EMERGENCY PAPER BALLOTS. (a) An insufficient
6 number of ballots or a malfunction of electronic voting system
7 equipment must be remedied through the use of emergency paper
8 ballots when no other method of voting is available during voting
9 hours for a person whose acceptance for voting is required by this
10 code.

11 (b) The secretary of state shall prescribe procedures for
12 the creation and use of emergency paper ballots as required by this
13 section.

14 SECTION 7. Section 67.010, Election Code, is amended by
15 adding Subsection (d) to read as follows:

16 (d) The presiding officer may make a clerical correction to
17 the officially canvassed returns based on any authorized amended
18 county canvass filed with the presiding officer.

19 SECTION 8. Section 85.001(e), Election Code, is amended to
20 read as follows:

21 (e) For an election held on the uniform election date in May
22 and any resulting runoff election, the period for early voting by
23 personal appearance begins on the 12th day before election day and
24 continues through the fourth day before election day.

25 SECTION 9. Section 85.004, Election Code, is amended to
26 read as follows:

27 Sec. 85.004. PUBLIC NOTICE OF [~~MAIN~~] POLLING PLACE

1 LOCATION. The election order and the election notice must state
2 the location of each [~~the main~~] early voting polling place.

3 SECTION 10. Chapter 101, Election Code, is amended by
4 adding Section 101.0041 to read as follows:

5 Sec. 101.0041. ACTION BY EARLY VOTING CLERK ON CERTAIN
6 APPLICATIONS. The early voting clerk shall notify the voter
7 registrar of a federal postcard application submitted by an
8 applicant that states a voting residence address located outside
9 the registrar's county.

10 SECTION 11. Section 112.002(a), Election Code, is amended
11 to read as follows:

12 (a) After changing residence to another county, a person is
13 eligible to vote a limited ballot by personal appearance during the
14 early voting period or by mail if:

15 (1) the person would have been eligible to vote in the
16 county of former residence on election day if still residing in that
17 county;

18 (2) the person is [~~was~~] registered to vote in the
19 county of former residence at the time the person offers to vote in
20 the county of new [~~when the voter changed~~] residence; and

21 (3) a voter registration for the person in the county
22 of new residence is not effective on or before election day.

23 SECTION 12. Subchapter A, Chapter 125, Election Code, is
24 amended by adding Section 125.010 to read as follows:

25 Sec. 125.010. PRESENCE OF VOTING SYSTEM TECHNICIAN
26 AUTHORIZED. (a) In this section, "voting system technician" means
27 a person who as a vocation repairs, assembles, maintains, or

1 operates voting system equipment.

2 (b) On the request of the authority holding the election, a
3 voting system technician may be present at a polling place, a
4 meeting of the early voting ballot board, or a central counting
5 station for the purpose of repairing, assembling, maintaining, or
6 operating voting system equipment.

7 SECTION 13. Subchapter B, Chapter 141, Election Code, is
8 amended by adding Section 141.040 to read as follows:

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

15 SECTION 14. Section 146.0301(a), Election Code, as amended
16 by Chapters 1107 (H.B. 2309) and 1109 (H.B. 2339), Acts of the 79th
17 Legislature, Regular Session, 2005, is reenacted to read as
18 follows:

19 (a) A write-in candidate may not withdraw from the election
20 after the 67th day before election day.

21 SECTION 15. Section 172.116(b), Election Code, is amended
22 to read as follows:

23 (b) The committee shall convene to conduct the local canvass
24 at the county seat [~~not earlier than 6 p.m.~~] on the second Thursday
25 [~~or later than 1 p.m. on the second Friday~~] after election day at
26 the hour specified by the county chair.

27 SECTION 16. Section 172.120, Election Code, is amended by

1 amending Subsection (b) and adding Subsection (b-1) to read as
2 follows:

3 (b) The state executive committee shall convene to conduct
4 the state canvass for the general primary election not later than:

5 (1) ~~on~~ the second Sunday ~~[Wednesday]~~ after general
6 primary election day, for an election in which three or more
7 candidates are seeking election to the same office; or

8 (2) the 22nd day after general primary election day,
9 for an election not described by Subdivision (1).

10 (b-1) Not later than the third ~~[second]~~ Saturday after
11 runoff primary election day, the committee shall convene at the
12 call of the state chair to conduct the state canvass of the runoff
13 primary election.

14 SECTION 17. Section 192.031, Election Code, is amended to
15 read as follows:

16 Sec. 192.031. PARTY CANDIDATE'S ENTITLEMENT TO PLACE ON
17 BALLOT. (a) A political party is entitled to have the names of
18 its nominees for president and vice-president of the United States
19 placed on the ballot in a presidential general election if:

20 (1) the nominees possess the qualifications for those
21 offices prescribed by federal law;

22 (2) ~~[before 5 p.m. of the 70th day before presidential~~
23 ~~election day,~~ the party's state chair signs ~~[and delivers to the~~
24 ~~secretary of state]~~ a written certification of:

25 (A) the names of the party's nominees for
26 president and vice-president; and

27 (B) the names and residence addresses of

1 presidential elector candidates nominated by the party, in a number
2 equal to the number of presidential electors that federal law
3 allocates to this state; ~~and~~

4 (3) the party's state chair delivers the written
5 certification to the secretary of state before the later of:

6 (A) 5 p.m. of the 70th day before presidential
7 election day; or

8 (B) 5 p.m. of the first business day after the
9 date of final adjournment of the party's national presidential
10 nominating convention; and

11 (4) the party is:

12 (A) required or authorized by Subchapter A of
13 Chapter 172 to make its nominations by primary election; or

14 (B) entitled to have the names of its nominees
15 placed on the general election ballot under Chapter 181.

16 (b) If the state chair's certification of the party's
17 nominees is delivered by mail, it is considered to be delivered at
18 the time of its receipt by the secretary of state.

19 SECTION 18. Section 192.033(b), Election Code, is amended
20 to read as follows:

21 (b) The ~~[Not later than the 62nd day before presidential~~
22 ~~election day, the]~~ secretary of state shall deliver the
23 certification to the authority responsible for having the official
24 ballot prepared in each county before the later of the 62nd day
25 before presidential election day or the second business day after
26 the date of final adjournment of the party's national presidential
27 nominating convention.

1 SECTION 19. Section 201.054(a), Election Code, is amended
2 to read as follows:

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

6 (1) 5 p.m. of the 62nd [~~67th~~] day before election day,
7 if election day is on or after the 70th day after the date the
8 election is ordered;

9 (2) 5 p.m. of the 31st day before election day, if
10 election day is on or after the 36th day and before the 70th day
11 after the date the election is ordered; or

12 (3) 5 p.m. of a day fixed by the authority ordering the
13 election, which day must be not earlier than the fifth day after the
14 date the election is ordered and not later than the 20th day before
15 election day, if election day is before the 36th day after the date
16 the election is ordered.

17 SECTION 20. Section 212.112, Election Code, is amended to
18 read as follows:

19 Sec. 212.112. AMOUNT OF DEPOSIT. The [~~(a) Subject to~~
20 ~~Subsection (d), the~~] amount of the recount deposit is [~~determined~~
21 ~~by the number of precincts for which a recount is requested in the~~
22 ~~document that the deposit accompanies, in accordance with the~~
23 ~~following schedule~~]:

24 (1) \$60 [~~five times the maximum hourly rate of pay for~~
25 ~~election judges,~~] for each [~~a~~] precinct in which~~+~~

26 [~~(A)~~] regular paper ballots were used; and

27 (2) \$100 for each precinct in which an electronic

1 voting system was used [~~(B) — electronic voting system ballots,~~
2 ~~other than printed images of ballots cast using direct recording~~
3 ~~electronic voting machines, are to be recounted manually, or~~

4 [~~(C) — both write-in votes and voting system votes~~
5 ~~are to be recounted,~~

6 [~~(2) — 10 times the maximum hourly rate of pay for~~
7 ~~election judges, for a precinct in which printed images of ballots~~
8 ~~cast using direct recording electronic voting machines are to be~~
9 ~~recounted manually,~~

10 [~~(3) — three times the maximum hourly rate of pay for~~
11 ~~election judges, for a precinct in which ballots are to be recounted~~
12 ~~by automatic tabulating equipment and no write-in votes are to be~~
13 ~~recounted, and~~

14 [~~(4) — two times the maximum hourly rate of pay for~~
15 ~~election judges, for a precinct in which:~~

16 [~~(A) — voting machines were used and no write-in~~
17 ~~votes are to be recounted, or~~

18 [~~(B) — only the write-in votes cast in connection~~
19 ~~with a voting system are to be recounted].~~

20 [~~(b) — In a recount of an election for which a majority vote is~~
21 ~~required for nomination or election to an office, the rate~~
22 ~~prescribed by Subsection (a)(1)(C) applies to each precinct in~~
23 ~~which a voting system was used, regardless of whether any write-in~~
24 ~~votes were cast in the precinct, if:~~

25 [~~(1) — the original election results show that write-in~~
26 ~~votes were cast in the election, and~~

27 [~~(2) — an exclusion of write-in votes from the recount~~

1 ~~is not obtained under Section 212.136.~~

2 ~~[(c) If more than one method of voting is used for early~~
3 ~~voting, each additional method of voting used for the early voting~~
4 ~~shall be treated as constituting an additional precinct in~~
5 ~~determining the amount of a recount deposit for a recount of early~~
6 ~~voting votes.~~

7 ~~[(d) The minimum amount of a deposit accompanying a petition~~
8 ~~for a recount is \$50.]~~

9 SECTION 21. Sections 213.013(b), (c), (d), (e), (f), (g),
10 (h), and (i), Election Code, are amended to read as follows:

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

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

23 (d) In a recount of an election on a measure, watchers
24 ~~[representatives]~~ may be appointed by the campaign treasurer or
25 assistant campaign treasurer of a specific-purpose political
26 committee that supports or opposes the measure in the number
27 corresponding to the number of counting teams designated for the

1 recount. If only one counting team is designated or the recount is
2 conducted on automatic tabulating equipment, each eligible
3 specific-purpose political committee is entitled to two watchers
4 [~~representatives~~].

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

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

14 (1) the printed name and the signature of the watcher
15 [~~representative~~];

16 (2) the election subject to the recount;

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

18 (4) the measure, candidate, or political party being
19 represented;

20 (5) the signature and the printed name of the person
21 making the appointment; and

22 (6) an indication of the capacity in which the
23 appointing authority is acting.

24 (g) If the watcher [~~representative~~] is accepted for
25 service, the recount committee chair shall keep the certificate and
26 deliver it to the recount coordinator after the recount for
27 preservation under Section 211.007. If the watcher

1 ~~[representative]~~ is not accepted for service, the recount committee
2 chair shall return the certificate to the watcher ~~[representative]~~
3 with a signed statement of the reason for the rejection.

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

15 (i) No mechanical or electronic means of recording images or
16 sound are allowed inside the room in which the recount is conducted,
17 or in any hallway or corridor in the building in which the recount
18 is conducted within 30 feet of the entrance to the room, while the
19 recount is in progress. However, on request of a person entitled to
20 appoint watchers ~~[representatives]~~ to serve at the recount, the
21 recount committee chair shall permit the person to photocopy under
22 the chair's supervision any ballot, including any supporting
23 materials, challenged by the person or person's watcher
24 ~~[representative]~~. The person must pay a reasonable charge for
25 making the copies and, if no photocopying equipment is available,
26 may supply that equipment at the person's expense. The person shall
27 provide a copy on request to another person entitled to appoint

1 watchers [~~representatives~~] to serve at the recount.

2 SECTION 22. Section 213.016, Election Code, is amended to
3 read as follows:

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

15 SECTION 23. Section 221.014(b), Election Code, is amended
16 to read as follows:

17 (b) The county shall pay the expenses of a new election
18 ordered in the contest of a local option election [~~held under the~~
19 ~~Alcoholic Beverage Code~~] that was financed from money deposited by
20 the applicants for the petition requesting the election.

21 SECTION 24. Sections 271.002(a), (b), and (c), Election
22 Code, are amended to read as follows:

23 (a) If the elections ordered by the authorities of two or
24 more political subdivisions are to be held on the same day in all or
25 part of the same county [~~territory~~], the governing bodies of the
26 political subdivisions may enter into an agreement to hold the
27 elections jointly in the election precincts that can be served by

1 common polling places, subject to Section 271.003.

2 (b) If an election ordered by the governor and the elections
3 ordered by the authorities of one or more political subdivisions
4 are to be held on the same day in all or part of the same county
5 [~~territory~~], the commissioners court of a county in which the
6 election ordered by the governor is to be held and the governing
7 bodies of the other political subdivisions may enter into an
8 agreement to hold the elections jointly in the election precincts
9 that can be served by common polling places, subject to Section
10 271.003.

11 (c) If another law requires two or more political
12 subdivisions to hold a joint election, the governing body of any
13 other political subdivision holding an election on the same day in
14 all or part of the same county [~~territory~~] in which the joint
15 election is to be held may enter into an agreement to participate in
16 the joint election with the governing bodies of the political
17 subdivisions holding the joint election.

18 SECTION 25. Section 277.001, Election Code, is amended to
19 read as follows:

20 Sec. 277.001. APPLICABILITY OF CHAPTER. This chapter
21 applies to a petition authorized or required to be filed under a law
22 outside this code in connection with an election[, ~~except a~~
23 ~~petition for a local option election held under the Alcoholic~~
24 ~~Beverage Code~~].

25 SECTION 26. Sections 1.016, 32.051(d), 33.031(b),
26 41.0041(b), and 65.002(d), Election Code, are repealed.

27 SECTION 27. The change in law made by the repeal of Section

1 1.016, Election Code, by this Act does not affect the validity of a
2 person's action taken before the effective date of this Act,
3 including a person's registration to vote, if the person was
4 qualified to take such action before the effective date of this Act.

5 SECTION 28. The changes in law made by this Act apply only
6 to an election ordered on or after September 1, 2009.

7 SECTION 29. This Act takes effect September 1, 2009.