A BILL TO BE ENTITLED

1   AN ACT

2 relating to the requirements for accepting a special provisional

3 ballot.

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

5   SECTION 1. Section 124.006, Election Code, is amended to

6 read as follows:

7   The secretary of state shall prescribe the forms of a

8 provisional ballot, a special identification provisional ballot

9 and the necessary procedures to implement the casting of a

10 provisional ballot and a special identification provisional ballot

11 as described by Section 63.011 and the verification and processing

12 of provisional ballots under Subchapter B, Chapter 65, for each

13 voting system used in this state.

14   SECTION 2. Section 63.011, Election Code, is amended to

15 read as follows:

16   (d) An election officer shall:

17   (1) enter   "provisional   vote"   or   "special

18 identification provisional vote" on the poll list beside the name

19 of each voter who is accepted for voting under this section; and

20   (2) inform the voter of the requirements of Section

21 65.0541.

22   (e) A person who is permitted under a state or federal court

23 order to cast a ballot in an election for a federal office after the

24 time allowed by Subchapter B, Chapter 41, must cast the ballot as a

1 provisional vote in the manner required by this section.

2 (f) A person shall be allowed to vote a special

3 identification provisional ballot marked to show that the special

4 identification provisional ballot is being accepted without the

5 identification required by the Election Code.

6 SECTION 3. Section 65.054(b), Election Code, is amended to

7 read as follows:

8 (b) All provisional ballots, including special

9 identification provisional ballots, may be accepted only if:

10 (1) the board determines that, from the information in

11 the affidavit or contained in public records, the person is

12 eligible to vote in the election and has not previously voted in

13 that election;

14 (2) the voter meets the identification requirements of

15 Election Code, Chapter 63 in the period prescribed under Section

16 65.0541; and

17 (3) before the election is canvassed, the election

18 officials shall make a reasonable effort to determine if the voter

19 of the special identification provisional ballot is a qualified

20 voter.

21 (c) All provisional ballots, including special

22 identification provisional ballots, in compliance with Subsection

23 (b) shall be counted and included in the official canvass of

24 elections.

25 SECTION 4. Subchapter B, Chapter 65, Election Code, is

26 amended by adding Section 65.0541 to read as follows:

27 Sec. 65.0541. PRESENTATION OF IDENTIFICATION FOR CERTAIN

1 PROVISIONAL BALLOTS. (a) A voter who is accepted for provisional

2 voting including use of a special identification provisional ballot

3 under Section 63.011 because the voter does not meet the

4 identification requirements of Chapter 63 may, not later than the

5 10th business day after the date of the election, present proof of

6 identification to the voter registrar for examination by the early

7 voting ballot board.

8 (b) Any interested person may present the proof of

9 identification in the manner described by Subsection (a) on behalf

10 of a voter who is accepted for provisional voting under Section

11 63.011.

12 (c) The secretary of state shall prescribe procedures as

13 necessary to implement this section.

14 SECTION 5. Chapter 13, Election Code, is amended by adding

15 Section 13.004(e) to read as follows:

16 (e) the list of registered voters that voted a special

17 identification provisional ballot shall be public record and made

18 available for inspection and copying at any time after election

19 day.

20 (f) Subsection (e) is enforceable by writ of mandamus as

21 provided by Section 273.061 of this Code.

22 SECTION 6. This Act takes effect September 1, 2009.