

1-1 By: Torres, et al. (Senate Sponsor - Van de Putte) H.B. No. 2173  
1-2 (In the Senate - Received from the House May 6, 2011;  
1-3 May 9, 2011, read first time and referred to Committee on State  
1-4 Affairs; May 20, 2011, reported adversely, with favorable  
1-5 Committee Substitute by the following vote: Yeas 8, Nays 0;  
1-6 May 20, 2011, sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR H.B. No. 2173 By: Van de Putte

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

1-10 relating to the adoption of certain voting procedures and to  
1-11 certain elections, including procedures necessary to implement the  
1-12 federal Military and Overseas Voter Empowerment Act, deadlines for  
1-13 declaration of candidacy and dates for certain elections, and to  
1-14 terms of certain elected officials.

1-15 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-16 SECTION 1. Chapter 101, Election Code, is amended to read as  
1-17 follows:

1-18 CHAPTER 101. VOTING BY RESIDENT FEDERAL POSTCARD APPLICANT

1-19 SUBCHAPTER A. GENERAL PROVISIONS

1-20 Sec. 101.001. ELIGIBILITY. A person is eligible for early  
1-21 voting by mail as provided by this chapter if:

1-22 (1) the person is qualified to vote in this state or,  
1-23 if not registered to vote in this state, would be qualified if  
1-24 registered; and

1-25 (2) the person is:

1-26 (A) a member of the armed forces of the United  
1-27 States, or the spouse or a dependent of a member;

1-28 (B) a member of the merchant marine of the United  
1-29 States, or the spouse or a dependent of a member; or

1-30 (C) domiciled in this state but temporarily  
1-31 living outside the territorial limits of the United States and the  
1-32 District of Columbia.

1-33 Sec. 101.002. GENERAL CONDUCT OF VOTING. Voting under this  
1-34 chapter shall be conducted and the results shall be processed as  
1-35 provided by Subtitle A for early voting by mail, except as otherwise  
1-36 provided by this chapter.

1-37 Sec. 101.003. DEFINITIONS. [~~FORM AND CONTENTS OF~~  
1-38 ~~APPLICATION. (a) An application for a ballot to be voted under~~  
1-39 ~~this chapter must:~~

1-40 [~~(1) be submitted on an official federal postcard~~  
1-41 ~~application form; and~~

1-42 [~~(2) include the information necessary to indicate~~  
1-43 ~~that the applicant is eligible to vote in the election for which the~~  
1-44 ~~ballot is requested.~~

1-45 [~~(b)] In this chapter:~~

1-46 (1) "Federal[~~, "federal"~~] postcard application" means  
1-47 an application for a ballot to be voted under this chapter submitted  
1-48 on the official federal form prescribed under the federal Uniformed  
1-49 and Overseas Citizens Absentee Voting Act (42 U.S.C. Section 1973ff  
1-50 et seq.).

1-51 (2) "FPCA registrant" means a person registered to  
1-52 vote under Section 101.055.

1-53 Sec. 101.004. NOTING FPCA REGISTRATION ON POLL LIST. For  
1-54 each FPCA registrant accepted to vote, a notation shall be made  
1-55 beside the voter's name on the early voting poll list indicating  
1-56 that the voter is an FPCA registrant.

1-57 Sec. 101.005. NOTING FPCA REGISTRATION AND E-MAIL ON EARLY  
1-58 VOTING ROSTER. The entry on the early voting roster pertaining to a  
1-59 voter under this chapter who is an FPCA registrant must include a  
1-60 notation indicating that the voter is an FPCA registrant. The early  
1-61 voting clerk shall note on the early voting by mail roster each  
1-62 e-mail of a ballot under Subchapter C.

1-63 Sec. 101.006. EXCLUDING FPCA REGISTRANT FROM PRECINCT EARLY

2-1 VOTING LIST. A person to whom a ballot is provided under this  
 2-2 chapter is not required to be included on the precinct early voting  
 2-3 list if the person is an FPCA registrant.

2-4 Sec. 101.007. DESIGNATION OF SECRETARY OF STATE. (a) The  
 2-5 secretary of state is designated as the state office to provide  
 2-6 information regarding voter registration procedures and absentee  
 2-7 ballot procedures, including procedures related to the federal  
 2-8 write-in absentee ballot, to be used by persons eligible to vote  
 2-9 under the federal Uniformed and Overseas Citizens Absentee Voting  
 2-10 Act (42 U.S.C. Section 1973ff et seq.).

2-11 (b) The secretary of state is designated as the state  
 2-12 coordinator between military and overseas voters and county  
 2-13 election officials. A county election official shall:

2-14 (1) cooperate with the secretary of state to ensure  
 2-15 that military and overseas voters timely receive accurate balloting  
 2-16 materials that a voter is able to cast in time for the election; and

2-17 (2) otherwise comply with the federal Military and  
 2-18 Overseas Voter Empowerment Act (Pub. L. No. 111-84, Div. A, Title V,  
 2-19 Subt. H).

2-20 (c) The secretary of state may adopt rules as necessary to  
 2-21 implement this section.

2-22 Sec. 101.008. STATUS OF APPLICATION OR BALLOT VOTED. The  
 2-23 secretary of state, in coordination with local election officials,  
 2-24 shall implement an electronic free-access system by which a person  
 2-25 eligible for early voting by mail under this chapter or Chapter 114  
 2-26 may determine by telephone, by e-mail, or over the Internet  
 2-27 whether:

2-28 (1) the person's federal postcard application or other  
 2-29 registration or ballot application has been received and accepted;  
 2-30 and

2-31 (2) the person's ballot has been received and the  
 2-32 current status of the ballot.

2-33 SUBCHAPTER B. SUBMISSION OF FEDERAL POSTCARD APPLICATION

2-34 Sec. 101.051. FORM AND CONTENTS OF APPLICATION. An  
 2-35 application for a ballot to be voted under this subchapter must:

2-36 (1) be submitted on an official federal postcard  
 2-37 application form; and

2-38 (2) include the information necessary to indicate that  
 2-39 the applicant is eligible to vote in the election for which the  
 2-40 ballot is requested.

2-41 Sec. 101.052 [~~101.004~~]. SUBMITTING APPLICATION. (a) A  
 2-42 federal postcard application must be submitted to the early voting  
 2-43 clerk for the election who serves the election precinct of the  
 2-44 applicant's residence.

2-45 (a-1) A federal postcard application must be submitted by:

2-46 (1) mail; or

2-47 (2) electronic transmission of an image of the  
 2-48 application under procedures prescribed by the secretary of state.

2-49 (b) A federal postcard application may be submitted at any  
 2-50 time during the calendar year in which the election for which a  
 2-51 ballot is requested occurs, but not later than the deadline for  
 2-52 submitting a regular application for a ballot to be voted by mail.

2-53 (c) A federal postcard application requesting a ballot for  
 2-54 an election to be held in January or February may be submitted in  
 2-55 the preceding calendar year but not earlier than the earliest date  
 2-56 for submitting a regular application for a ballot to be voted by  
 2-57 mail.

2-58 (d) A timely application that is addressed to the wrong  
 2-59 early voting clerk shall be forwarded to the proper early voting  
 2-60 clerk not later than the day after the date it is received by the  
 2-61 wrong clerk.

2-62 (e) An applicant who otherwise complies with applicable  
 2-63 requirements is entitled to receive a full ballot to be voted by  
 2-64 mail under this chapter if:

2-65 (1) the applicant submits a federal postcard  
 2-66 application to the early voting clerk on or before the 20th day  
 2-67 before election day; and

2-68 (2) the application contains the information that is  
 2-69 required for registration under Title 2.

3-1 (f) The applicant is entitled to receive only a federal  
3-2 ballot to be voted by mail under Chapter 114 if:

3-3 (1) the applicant submits the federal postcard  
3-4 application to the early voting clerk after the date provided by  
3-5 Subsection (e)(1) and before the sixth day before election day; and

3-6 (2) the application contains the information that is  
3-7 required for registration under Title 2.

3-8 (g) An applicant who submits a federal postcard application  
3-9 to the early voting clerk on or after the sixth day before election  
3-10 day is not entitled to receive a ballot by mail for that election.

3-11 (h) If the applicant submits the federal postcard  
3-12 application within the time prescribed by Subsection (f)(1) and is  
3-13 a registered voter at the address contained on the application, the  
3-14 applicant is entitled to receive a full ballot to be voted by mail  
3-15 under this chapter.

3-16 (i) Except as provided by Subsections (l) and (m), for  
3-17 purposes of determining the date a federal postcard application is  
3-18 submitted to the early voting clerk, an application is considered  
3-19 to be submitted on the date it is placed and properly addressed in  
3-20 the United States mail. An application mailed from an Army/Air  
3-21 Force Post Office (APO) or Fleet Post Office (FPO) is considered  
3-22 placed in the United States mail. The date indicated by the post  
3-23 office cancellation mark, including a United States military post  
3-24 office cancellation mark, is considered to be the date the  
3-25 application was placed in the mail unless proven otherwise. For  
3-26 purposes of an application made under Subsection (e):

3-27 (1) an application that does not contain a  
3-28 cancellation mark is considered to be timely if it is received by  
3-29 the early voting clerk on or before the 15th day before election  
3-30 day; and

3-31 (2) if the 20th day before the date of an election is a  
3-32 Saturday, Sunday, or legal state or national holiday, an  
3-33 application is considered to be timely if it is submitted to the  
3-34 early voting clerk on or before the next regular business day.

3-35 (j) If the early voting clerk determines that an application  
3-36 that is submitted before the time prescribed by Subsection (e)(1)  
3-37 does not contain the information that is required for registration  
3-38 under Title 2, the clerk shall notify the applicant of that fact.  
3-39 If the applicant has provided a telephone number or an address for  
3-40 receiving mail over the Internet, the clerk shall notify the  
3-41 applicant by that medium.

3-42 (k) If the applicant submits the missing information before  
3-43 the time prescribed by Subsection (e)(1), the applicant is entitled  
3-44 to receive a full ballot to be voted by mail under this chapter. If  
3-45 the applicant submits the missing information after the time  
3-46 prescribed by Subsection (e)(1), the applicant is entitled to  
3-47 receive a full ballot to be voted by mail for the next election that  
3-48 occurs:

3-49 (1) in the same calendar year; and

3-50 (2) after the 30th day after the date the information  
3-51 is submitted.

3-52 (l) For purposes of determining the end of the period that  
3-53 an application may be submitted under Subsection (f)(1), an  
3-54 application is considered to be submitted at the time it is received  
3-55 by the early voting clerk.

3-56 (m) The secretary of state by rule shall establish the date  
3-57 on which a federal postcard application is considered to be  
3-58 electronically submitted to the early voting clerk.

3-59 Sec. 101.053 [~~101.0041~~]. ACTION BY EARLY VOTING CLERK ON  
3-60 CERTAIN APPLICATIONS. The early voting clerk shall notify the  
3-61 voter registrar of a federal postcard application submitted by an  
3-62 applicant that states a voting residence address located outside  
3-63 the registrar's county.

3-64 Sec. 101.054 [~~101.005~~]. APPLYING FOR MORE THAN ONE ELECTION  
3-65 IN SAME APPLICATION. (a) A person may apply with a single federal  
3-66 postcard application for a ballot for any one or more elections in  
3-67 which the early voting clerk to whom the application is submitted  
3-68 conducts early voting.

3-69 (b) An application that does not identify the election for

4-1 which a ballot is requested shall be treated as if it requests a  
4-2 ballot for:

4-3 (1) each general election in which the clerk conducts  
4-4 early voting; and

4-5 (2) the general primary election if the application  
4-6 indicates party preference and is submitted to the early voting  
4-7 clerk for the primary.

4-8 (c) An application shall be treated as if it requests a  
4-9 ballot for[+]

4-10 [~~(1)~~] a runoff election that results from an election  
4-11 for which a ballot is requested[+and

4-12 [~~(2)~~ each election for a federal office, including a  
4-13 primary or runoff election, that occurs on or before the date of the  
4-14 second general election for state and county officers that occurs  
4-15 after the date the application is submitted].

4-16 (d) An application requesting a ballot for more than one  
4-17 election shall be preserved for the period for preserving the  
4-18 precinct election records for the last election for which the  
4-19 application is effective.

4-20 Sec. 101.055 [~~101.006~~]. FPCA VOTER REGISTRATION. (a) The  
4-21 submission of a federal postcard application that complies with the  
4-22 applicable requirements by an unregistered applicant constitutes  
4-23 registration by the applicant:

4-24 (1) for the purpose of voting in the election for which  
4-25 a ballot is requested; and

4-26 (2) under Title 2 unless the person indicates on the  
4-27 application that the person is residing outside the United States  
4-28 indefinitely.

4-29 (b) For purposes of registering to vote under this chapter,  
4-30 a person shall provide the address of the last place of residence of  
4-31 the person in this state or the last place of residence in this  
4-32 state of the person's parent or legal guardian.

4-33 (c) The voter registrar shall register the person at the  
4-34 address provided under Subsection (b) unless that address no longer  
4-35 is recognized as a residential address, in which event the  
4-36 registrar shall assign the person to an address under procedures  
4-37 prescribed by the secretary of state [In this chapter, "FPCA  
4-38 registrant" means a person registered to vote under this section].

4-39 Sec. 101.056 [~~101.007~~]. METHOD OF PROVIDING BALLOT;  
4-40 REQUIRED ADDRESS. (a) The balloting materials provided under this  
4-41 subchapter [~~chapter~~] shall be airmailed to the voter free of United  
4-42 States postage, as provided by the federal Uniformed and Overseas  
4-43 Citizens Absentee Voting Act (42 U.S.C. Section 1973ff et seq.), in  
4-44 an envelope labeled "Official Election Balloting Material - via  
4-45 Airmail." The secretary of state shall provide early voting clerks  
4-46 with instructions on compliance with this subsection.

4-47 (b) The address to which the balloting materials are sent to  
4-48 a voter must be:

4-49 (1) an address outside the county of the voter's  
4-50 residence; or

4-51 (2) an address in the United States for forwarding or  
4-52 delivery to the voter at a location outside the United States.

4-53 (c) If the address to which the balloting materials are to  
4-54 be sent is within the county served by the early voting clerk, the  
4-55 federal postcard application must indicate that the balloting  
4-56 materials will be forwarded or delivered to the voter at a location  
4-57 outside the United States.

4-58 Sec. 101.057 [~~101.008~~]. RETURN OF VOTED BALLOT. A ballot  
4-59 voted under this subchapter [~~chapter~~] may be returned to the early  
4-60 voting clerk by mail, common or contract carrier, or courier.

4-61 [~~Sec. 101.009. NOTING FPCA REGISTRATION ON POLL LIST. For~~  
4-62 ~~each FPCA registrant accepted to vote, a notation shall be made~~  
4-63 ~~beside the voter's name on the early voting poll list indicating~~  
4-64 ~~that the voter is an FPCA registrant.~~

4-65 [~~Sec. 101.010. NOTING FPCA REGISTRATION ON EARLY VOTING~~  
4-66 ~~ROSTER. The entry on the early voting roster pertaining to a voter~~  
4-67 ~~under this chapter who is an FPCA registrant must include a notation~~  
4-68 ~~indicating that the voter is an FPCA registrant.~~

4-69 [~~Sec. 101.011. EXCLUDING FPCA REGISTRANT FROM PRECINCT~~

5-1 ~~EARLY VOTING LIST. A person to whom a ballot is provided under this~~  
 5-2 ~~chapter is not required to be included on the precinct early voting~~  
 5-3 ~~list if the person is an FPCA registrant.]~~

5-4 Sec. 101.058 [101.012]. OFFICIAL CARRIER ENVELOPE. The  
 5-5 officially prescribed carrier envelope for voting under this  
 5-6 subchapter [chapter] shall be prepared so that it can be mailed free  
 5-7 of United States postage, as provided by the federal Uniformed and  
 5-8 Overseas Citizens Absentee Voting Act (42 U.S.C. Section 1973ff et  
 5-9 seq.) [Federal Voting Assistance Act of 1955], and must contain the  
 5-10 label prescribed by Section 101.056(a) [101.007(a)] for the  
 5-11 envelope in which the balloting materials are sent to a voter. The  
 5-12 secretary of state shall provide early voting clerks with  
 5-13 instructions on compliance with this section.

5-14 SUBCHAPTER C. E-MAIL TRANSMISSION OF BALLOTING MATERIALS

5-15 Sec. 101.101. PURPOSE. The purpose of this subchapter is to  
 5-16 implement the federal Military and Overseas Voter Empowerment Act  
 5-17 (Pub. L. No. 111-84, Div. A, Title V, Subt. H).

5-18 Sec. 101.102. REQUEST FOR BALLOTING MATERIALS. (a) A  
 5-19 person eligible to vote under this chapter may request from the  
 5-20 appropriate early voting clerk e-mail transmission of balloting  
 5-21 materials under this subchapter.

5-22 (b) The early voting clerk shall grant a request made under  
 5-23 this section for the e-mail transmission of balloting materials if:

5-24 (1) the requestor has submitted a valid federal  
 5-25 postcard application and:

5-26 (A) if the requestor is a person described by  
 5-27 Section 101.001(2)(C), has provided a current mailing address that  
 5-28 is located outside the United States; or

5-29 (B) if the requestor is a person described by  
 5-30 Section 101.001(2)(A) or (B), has provided a current mailing  
 5-31 address that is located outside the requestor's county of  
 5-32 residence;

5-33 (2) the requestor provides an e-mail address that:

5-34 (A) corresponds to the address on file with the  
 5-35 requestor's federal postcard application; or

5-36 (B) is stated on a newly submitted federal  
 5-37 postcard application;

5-38 (3) the request is submitted on or before the seventh  
 5-39 day before the date of the election; and

5-40 (4) a marked ballot for the election from the  
 5-41 requestor has not been received by the early voting clerk.

5-42 Sec. 101.103. CONFIDENTIALITY OF E-MAIL ADDRESS. An e-mail  
 5-43 address used under this subchapter to request balloting materials  
 5-44 is confidential and does not constitute public information for  
 5-45 purposes of Chapter 552, Government Code. An early voting clerk  
 5-46 shall ensure that a voter's e-mail address provided under this  
 5-47 subchapter is excluded from public disclosure.

5-48 Sec. 101.104. ELECTIONS COVERED. The e-mail transmission  
 5-49 of balloting materials under this subchapter is limited to:

5-50 (1) an election in which an office of the federal  
 5-51 government appears on the ballot, including a primary election;

5-52 (2) an election to fill a vacancy in the legislature  
 5-53 unless:

5-54 (A) the election is ordered as an emergency  
 5-55 election under Section 41.0011; or

5-56 (B) the election is held as an expedited election  
 5-57 under Section 203.013; or

5-58 (3) an election held jointly with an election  
 5-59 described by Subdivision (1) or (2).

5-60 Sec. 101.105. BALLOTING MATERIALS TO BE SENT BY E-MAIL.  
 5-61 Balloting materials to be sent by e-mail under this subchapter  
 5-62 include:

5-63 (1) the appropriate ballot;

5-64 (2) ballot instructions, including instructions that  
 5-65 inform a voter that the ballot must be returned by mail to be  
 5-66 counted;

5-67 (3) instructions prescribed by the secretary of state  
 5-68 on:

5-69 (A) how to print a return envelope from the

6-1 federal Voting Assistance Program website; and  
 6-2 (B) how to create a carrier envelope or signature  
 6-3 sheet for the ballot; and  
 6-4 (4) a list of certified write-in candidates, if  
 6-5 applicable.

6-6 Sec. 101.106. METHODS OF TRANSMISSION TO VOTER. (a) The  
 6-7 balloting materials may be provided by e-mail to the voter in PDF  
 6-8 format, through a scanned format, or by any other method of  
 6-9 electronic transmission authorized by the secretary of state in  
 6-10 writing.

6-11 (b) The secretary of state shall prescribe procedures for  
 6-12 the retransmission of balloting materials following an  
 6-13 unsuccessful transmission of the materials to a voter.

6-14 Sec. 101.107. RETURN OF BALLOT. (a) A voter described by  
 6-15 Section 101.001(2)(A) or (B) must be voting from outside the  
 6-16 voter's county of residence. A voter described by Section  
 6-17 101.001(2)(C) must be voting from outside the United States.

6-18 (b) A voter who receives a ballot under this subchapter must  
 6-19 return the ballot in the same manner as required under Section  
 6-20 101.057 and, except as provided by Chapter 105, may not return the  
 6-21 ballot by electronic transmission.

6-22 (c) A ballot that is not returned as required by Subsection  
 6-23 (b) is considered a ballot not timely returned and is not sent to  
 6-24 the early voting ballot board for processing.

6-25 (d) The deadline for the return of a ballot under this  
 6-26 section is the same deadline as provided in Section 86.007.

6-27 Sec. 101.108. TRACKING OF BALLOTING MATERIALS. The  
 6-28 secretary of state by rule shall create a tracking system under  
 6-29 which an FPCA registrant may determine whether a voted ballot has  
 6-30 been received by the early voting clerk. Each county that sends  
 6-31 ballots to FPCA registrants shall provide information required by  
 6-32 the secretary of state to implement the system.

6-33 Sec. 101.109. RULES. (a) The secretary of state may adopt  
 6-34 rules as necessary to implement this subchapter.

6-35 (b) The secretary of state may provide for an alternate  
 6-36 secure method of electronic ballot transmission under this  
 6-37 subchapter instead of transmission by e-mail.

6-38 ~~[Sec. 101.013. DESIGNATION OF SECRETARY OF STATE. The~~  
 6-39 ~~secretary of state is designated as the state office to provide~~  
 6-40 ~~information regarding voter registration procedures and absentee~~  
 6-41 ~~ballot procedures, including procedures related to the federal~~  
 6-42 ~~write-in absentee ballot, to be used by persons eligible to vote~~  
 6-43 ~~under the federal Uniformed and Overseas Citizens Absentee Voting~~  
 6-44 ~~Act (42 U.S.C. Section 1973ff et seq.), as amended.]~~

6-45 SECTION 2. Section 2.025, Election Code, is amended by  
 6-46 amending Subsection (a) and adding Subsection (d) to read as  
 6-47 follows:

6-48 (a) Except as provided by Subsection (d) or as otherwise  
 6-49 provided by this code, a runoff election shall be held not earlier  
 6-50 than the 20th or later than the 45th day after the date the final  
 6-51 canvass of the main election is completed.

6-52 (d) A runoff election for a special election to fill a  
 6-53 vacancy in Congress or a special election to fill a vacancy in the  
 6-54 legislature to which Section 101.104 applies shall be held not  
 6-55 earlier than the 70th day or later than the 77th day after the date  
 6-56 the final canvass of the main election is completed.

6-57 SECTION 3. Subsection (c), Section 3.005, Election Code, is  
 6-58 amended to read as follows:

6-59 (c) For an election to be held on:  
 6-60 (1) the date of the general election for state and  
 6-61 county officers, the election shall be ordered not later than the  
 6-62 78th [70th] day before election day; and

6-63 (2) a uniform election date other than the date of the  
 6-64 general election for state and county officers, the election shall  
 6-65 be ordered not later than the 71st day before election day.

6-66 SECTION 4. Section 41.001, Election Code, is amended by  
 6-67 amending Subsection (a) and adding Subsection (d) to read as  
 6-68 follows:

6-69 (a) Except as otherwise provided by this subchapter, each

7-1 general or special election in this state shall be held on one of  
7-2 the following dates:

7-3 (1) the second Saturday in May in an odd-numbered  
7-4 year;

7-5 (2) the second Saturday in May in an even-numbered  
7-6 year, for an election held by a political subdivision other than a  
7-7 county; or

7-8 (3) [~~2~~] the first Tuesday after the first Monday in  
7-9 November.

7-10 (d) Notwithstanding Section 31.093, a county elections  
7-11 administrator is not required to enter into a contract to furnish  
7-12 election services for an election held on the date described by  
7-13 Subsection (a)(2).

7-14 SECTION 5. Section 41.0052, Election Code, is amended to  
7-15 read as follows:

7-16 Sec. 41.0052. CHANGING GENERAL ELECTION DATE. (a) [~~The~~  
7-17 ~~governing body of a political subdivision other than a county may,~~  
7-18 ~~not later than December 31, 2005, change the date on which it holds~~  
7-19 ~~its general election for officers to another authorized uniform~~  
7-20 ~~election date.~~

7-21 [~~a-1~~] The governing body of a political subdivision,  
7-22 other than a county, that holds its general election for officers on  
7-23 a date other than the November uniform election date may, not later  
7-24 than December 31, 2012 [~~2010~~], change the date on which it holds its  
7-25 general election for officers to the November uniform election  
7-26 date.

7-27 (b) A governing body changing an election date under this  
7-28 section shall adjust the terms of office to conform to the new  
7-29 election date.

7-30 (c) A home-rule city may implement the change authorized by  
7-31 Subsection (a) through the adoption of a resolution. The change  
7-32 contained in the resolution supersedes a city charter provision  
7-33 that requires a different general election date.

7-34 (d) The holdover of a member of a governing body of a city in  
7-35 accordance with Section 17, Article XVI, Texas Constitution, so  
7-36 that a term of office may be conformed to a new election date chosen  
7-37 under this section does not constitute a vacancy for purposes of  
7-38 Section 11(b), Article XI, Texas Constitution.

7-39 SECTION 6. Subsection (b), Section 41.007, Election Code,  
7-40 is amended to read as follows:

7-41 (b) The runoff primary election date is the fourth Tuesday  
7-42 in May [~~second Tuesday in April~~] following the general primary  
7-43 election.

7-44 SECTION 7. Section 65.051, Election Code, is amended by  
7-45 adding Subsection (c) to read as follows:

7-46 (c) Section 1.006 does not apply to this section.

7-47 SECTION 8. Subsection (b), Section 86.004, Election Code,  
7-48 is amended to read as follows:

7-49 (b) For an election to which Section 101.104 applies [~~the~~  
7-50 ~~general election for state and county officers~~], the balloting  
7-51 materials for a voter who indicates on the application for a ballot  
7-52 to be voted by mail or the federal postcard application that the  
7-53 voter is eligible to vote early by mail as a consequence of the  
7-54 voter's being outside the United States shall be mailed on or before  
7-55 the later of the 45th day before election day or the seventh  
7-56 calendar day after the date the clerk receives the application.  
7-57 However, if it is not possible to mail the ballots by the deadline  
7-58 of the 45th day before election day, the clerk shall notify the  
7-59 secretary of state within 24 hours of knowing that the deadline will  
7-60 not be met. The secretary of state shall monitor the situation and  
7-61 advise the clerk, who shall mail the ballots as soon as possible in  
7-62 accordance with the secretary of state's guidelines.

7-63 SECTION 9. Subsection (b), Section 86.011, Election Code,  
7-64 is amended to read as follows:

7-65 (b) If the return is timely, the clerk shall enclose the  
7-66 carrier envelope and the voter's early voting ballot application in  
7-67 a jacket envelope. The clerk shall also include in the jacket  
7-68 envelope:

7-69 (1) a copy of the voter's federal postcard application

8-1 if the ballot is voted under Chapter 101; and  
 8-2 (2) the signature cover sheet, if the ballot is voted  
 8-3 under Chapter 105.

8-4 SECTION 10. Subchapter B, Chapter 87, Election Code, is  
 8-5 amended by adding Section 87.0223 to read as follows:

8-6 Sec. 87.0223. TIME OF DELIVERY: BALLOTS SENT OUT BY REGULAR  
 8-7 MAIL AND E-MAIL. (a) If the early voting clerk has provided a  
 8-8 voter a ballot to be voted by mail by both regular mail and e-mail  
 8-9 under Subchapter C, Chapter 101, the clerk may not deliver a jacket  
 8-10 envelope containing the early voting ballot voted by mail by the  
 8-11 voter to the board until:

8-12 (1) both ballots are returned; or  
 8-13 (2) the deadline for returning marked ballots under  
 8-14 Section 86.007 has passed.

8-15 (b) If both the ballot provided by regular mail and the  
 8-16 ballot provided by e-mail are returned before the deadline, the  
 8-17 early voting clerk shall deliver only the jacket envelope  
 8-18 containing the ballot provided by e-mail to the board. The ballot  
 8-19 provided by regular mail is considered to be a ballot not timely  
 8-20 returned.

8-21 SECTION 11. Section 87.041, Election Code, is amended by  
 8-22 adding Subsection (f) to read as follows:

8-23 (f) In making the determination under Subsection (b)(2) for  
 8-24 a ballot cast under Chapter 101 or 105, the board shall compare the  
 8-25 signature on the carrier envelope or signature cover sheet with the  
 8-26 signature of the voter on the federal postcard application.

8-27 SECTION 12. Section 87.043, Election Code, is amended by  
 8-28 amending Subsection (a) and adding Subsection (d) to read as  
 8-29 follows:

8-30 (a) The early voting ballot board shall place the carrier  
 8-31 envelopes containing rejected ballots in an envelope and shall seal  
 8-32 the envelope. More than one envelope may be used if necessary. The  
 8-33 board shall keep a record of the number of rejected ballots in each  
 8-34 envelope.

8-35 (d) A notation must be made on the carrier envelope of any  
 8-36 ballot that was rejected after the carrier envelope was opened and  
 8-37 include the reason the envelope was opened and the ballot was  
 8-38 rejected.

8-39 SECTION 13. Section 87.0431, Election Code, is amended to  
 8-40 read as follows:

8-41 Sec. 87.0431. NOTICE OF REJECTED BALLOT. Not later than the  
 8-42 10th day after election day, the presiding judge of the early voting  
 8-43 ballot board shall deliver written notice of the reason for the  
 8-44 rejection of a ballot to the voter at the residence address on the  
 8-45 ballot application. If the ballot was transmitted to the voter by  
 8-46 e-mail under Subchapter C, Chapter 101, the presiding judge shall  
 8-47 also provide the notice to the e-mail address to which the ballot  
 8-48 was sent.

8-49 SECTION 14. Subsection (a), Section 87.044, Election Code,  
 8-50 is amended to read as follows:

8-51 (a) The early voting ballot board shall place each  
 8-52 application for a ballot voted by mail in its corresponding jacket  
 8-53 envelope. For a ballot voted under Chapter 101 or 105, the board  
 8-54 shall also place the copy of the voter's federal postcard  
 8-55 application or signature cover sheet in the same location as the  
 8-56 carrier envelope. If the voter's ballot was accepted, the board  
 8-57 shall also place the carrier envelope in the jacket envelope.  
 8-58 However, if the jacket envelope is to be used in a subsequent  
 8-59 election, the carrier envelope shall be retained elsewhere.

8-60 SECTION 15. Section 105.003, Election Code, is amended to  
 8-61 read as follows:

8-62 Sec. 105.003. USE OF FEDERAL WRITE-IN ABSENTEE BALLOT FOR  
 8-63 ELECTIONS FOR FEDERAL OFFICE. The secretary of state shall  
 8-64 prescribe procedures to allow a voter who qualifies to vote by a  
 8-65 federal write-in absentee ballot to vote through use of a federal  
 8-66 write-in absentee ballot in:

8-67 (1) any general, special, primary, or runoff election  
 8-68 for federal office; or

8-69 (2) an election for any office for which balloting



9-1 materials may be sent under Section 101.104.

9-2 SECTION 16. Subsection (b), Section 142.010, Election Code,  
9-3 is amended to read as follows:

9-4 (b) Not later than the 68th [~~55th~~] day before general  
9-5 election day, the certifying authority shall deliver the  
9-6 certification to the authority responsible for having the official  
9-7 ballot prepared in each county in which the candidate's name is to  
9-8 appear on the ballot.

9-9 SECTION 17. Subsection (c), Section 143.007, Election Code,  
9-10 is amended to read as follows:

9-11 (c) For an election to be held on:

9-12 (1) the date of the general election for state and  
9-13 county officers, the day of the filing deadline is the 78th [~~70th~~]  
9-14 day before election day; and

9-15 (2) a uniform election date other than the date of the  
9-16 general election for state and county officers, the day of the  
9-17 filing deadline is the 71st day before election day.

9-18 SECTION 18. Subsection (d), Section 144.005, Election Code,  
9-19 is amended to read as follows:

9-20 (d) For an election to be held on:

9-21 (1) the date of the general election for state and  
9-22 county officers, the day of the filing deadline is the 78th [~~70th~~]  
9-23 day before election day; and

9-24 (2) a uniform election date other than the date of the  
9-25 general election for state and county officers, the day of the  
9-26 filing deadline is the 71st day before election day.

9-27 SECTION 19. Subsection (b), Section 144.006, Election Code,  
9-28 is amended to read as follows:

9-29 (b) For an election to be held on:

9-30 (1) the date of the general election for state and  
9-31 county officers, the day of the filing deadline is the 78th [~~67th~~]  
9-32 day before election day; and

9-33 (2) a uniform election date other than the date of the  
9-34 general election for state and county officers, the day of the  
9-35 filing deadline is the 71st day before election day.

9-36 SECTION 20. Subsection (e), Section 145.037, Election Code,  
9-37 is amended to read as follows:

9-38 (e) The certification must be delivered not later than 5  
9-39 p.m. of the 71st [~~70th~~] day before election day.

9-40 SECTION 21. Subsection (b), Section 145.038, Election Code,  
9-41 is amended to read as follows:

9-42 (b) The state chair must deliver the certification of the  
9-43 replacement nominee not later than 5 p.m. of the 69th [~~67th~~]  
9-44 day before election day.

9-45 SECTION 22. Subsection (f), Section 145.092, Election Code,  
9-46 is amended to read as follows:

9-47 (f) A candidate in an election for which the filing deadline  
9-48 for an application for a place on the ballot is not later than 5 p.m.  
9-49 of the 78th [~~70th~~] day before election day may not withdraw from the  
9-50 election after 5 p.m. of the 71st [~~67th~~] day before election day.

9-51 SECTION 23. Subsection (a), Section 145.094, Election Code,  
9-52 is amended to read as follows:

9-53 (a) The name of a candidate shall be omitted from the ballot  
9-54 if the candidate:

9-55 (1) dies before the second day before the date of the  
9-56 deadline for filing the candidate's application for a place on the  
9-57 ballot;

9-58 (2) withdraws or is declared ineligible before 5 p.m.  
9-59 of the second day before the beginning of early voting by personal  
9-60 appearance, in an election subject to Section 145.092(a);

9-61 (3) withdraws or is declared ineligible before 5 p.m.  
9-62 of the 53rd day before election day, in an election subject to  
9-63 Section 145.092(b); or

9-64 (4) withdraws or is declared ineligible before 5 p.m.  
9-65 of the 71st [~~67th~~] day before election day, in an election subject  
9-66 to Section 145.092(f).

9-67 SECTION 24. Subsection (a), Section 145.096, Election Code,  
9-68 is amended to read as follows:

9-69 (a) Except as provided by Subsection (b), a candidate's name

10-1 shall be placed on the ballot if the candidate:

10-2 (1) dies on or after the second day before the deadline  
10-3 for filing the candidate's application for a place on the ballot;

10-4 (2) is declared ineligible after 5 p.m. of the second  
10-5 day before the beginning of early voting by personal appearance, in  
10-6 an election subject to Section 145.092(a);

10-7 (3) is declared ineligible after 5 p.m. of the 53rd day  
10-8 before election day, in an election subject to Section 145.092(b);  
10-9 or

10-10 (4) is declared ineligible after 5 p.m. of the 71st  
10-11 [~~67th~~] day before election day, in an election subject to Section  
10-12 145.092(f).

10-13 SECTION 25. Subsections (a) and (b), Section 146.025,  
10-14 Election Code, are amended to read as follows:

10-15 (a) A declaration of write-in candidacy must be filed not  
10-16 later than 5 p.m. of the 78th [~~70th~~] day before general election  
10-17 day, except as otherwise provided by this code. A declaration may  
10-18 not be filed earlier than the 30th day before the date of the  
10-19 regular filing deadline.

10-20 (b) If a candidate whose name is to appear on the general  
10-21 election ballot dies or is declared ineligible after the third day  
10-22 before the date of the filing deadline prescribed by Subsection  
10-23 (a), a declaration of write-in candidacy for the office sought by  
10-24 the deceased or ineligible candidate may be filed not later than 5  
10-25 p.m. of the 75th [~~67th~~] day before election day.

10-26 SECTION 26. Subsection (c), Section 146.029, Election Code,  
10-27 is amended to read as follows:

10-28 (c) Not later than the 68th [~~62nd~~] day before election day,  
10-29 the certifying authority shall deliver the certification to the  
10-30 authority responsible for having the official ballot prepared in  
10-31 each county in which the office sought by the candidate is to be  
10-32 voted on.

10-33 SECTION 27. Subsection (b), Section 146.054, Election Code,  
10-34 is amended to read as follows:

10-35 (b) For an election to be held on:

10-36 (1) the date of the general election for state and  
10-37 county officers, the day of the filing deadline is the 74th [~~67th~~]  
10-38 day before election day; and

10-39 (2) a uniform election date other than the date of the  
10-40 general election for state and county officers, the day of the  
10-41 filing deadline is the 71st day before election day.

10-42 SECTION 28. Subsection (b), Section 161.008, Election Code,  
10-43 is amended to read as follows:

10-44 (b) Not later than the 68th [~~62nd~~] day before general  
10-45 election day, the secretary of state shall deliver the  
10-46 certification to the authority responsible for having the official  
10-47 general election ballot prepared in each county in which the  
10-48 candidate's name is to appear on the ballot.

10-49 SECTION 29. Subsection (a), Section 172.023, Election Code,  
10-50 is amended to read as follows:

10-51 (a) An application for a place on the general primary  
10-52 election ballot must be filed not later than 6 p.m. on the second  
10-53 Monday in December of an odd-numbered year [~~January 2 in the primary~~  
10-54 ~~election year~~] unless the filing deadline is extended under  
10-55 Subchapter C.

10-56 SECTION 30. Subsection (d), Section 171.0231, Election  
10-57 Code, is amended to read as follows:

10-58 (d) A declaration of write-in candidacy must be filed not  
10-59 later than 5 p.m. of the 85th [~~62nd~~] day before general primary  
10-60 election day. However, if a candidate whose name is to appear on  
10-61 the ballot for the office of county chair or precinct chair dies or  
10-62 is declared ineligible after the third day before the date of the  
10-63 regular filing deadline prescribed by this subsection, a  
10-64 declaration of write-in candidacy for the office sought by the  
10-65 deceased or ineligible candidate may be filed not later than 5 p.m.  
10-66 of the 81st [~~59th~~] day before election day.

10-67 SECTION 31. Subsection (b), Section 172.028, Election Code,  
10-68 is amended to read as follows:

10-69 (b) Not later than the 81st [~~57th~~] day before general

11-1 primary election day, the state chair shall deliver the  
 11-2 certification to the county chair in each county in which the  
 11-3 candidate's name is to appear on the ballot.

11-4 SECTION 32. Subsection (a), Section 172.052, Election Code,  
 11-5 is amended to read as follows:

11-6 (a) A candidate for nomination may not withdraw from the  
 11-7 general primary election after the 79th [~~62nd~~] day before general  
 11-8 primary election day.

11-9 SECTION 33. Subsections (a) and (b), Section 172.054,  
 11-10 Election Code, are amended to read as follows:

11-11 (a) The deadline for filing an application for a place on  
 11-12 the general primary election ballot is extended as provided by this  
 11-13 section if a candidate who has made an application that complies  
 11-14 with the applicable requirements:

11-15 (1) dies on or after the fifth day before the date of  
 11-16 the regular filing deadline and on or before the 79th [~~62nd~~] day  
 11-17 before general primary election day;

11-18 (2) holds the office for which the application was  
 11-19 made and withdraws or is declared ineligible on or after the date of  
 11-20 the regular filing deadline and on or before the 79th [~~62nd~~] day  
 11-21 before general primary election day; or

11-22 (3) withdraws or is declared ineligible during the  
 11-23 period prescribed by Subdivision (2), and at the time of the  
 11-24 withdrawal or declaration of ineligibility no other candidate has  
 11-25 made an application that complies with the applicable requirements  
 11-26 for the office sought by the withdrawn or ineligible candidate.

11-27 (b) An application for an office sought by a withdrawn,  
 11-28 deceased, or ineligible candidate must be filed not later than 6  
 11-29 p.m. of the 77th [~~60th~~] day before general primary election day. An  
 11-30 application filed by mail with the state chair is not timely if  
 11-31 received later than 5 p.m. of the 77th [~~60th~~] day before general  
 11-32 primary election day.

11-33 SECTION 34. Section 172.057, Election Code, is amended to  
 11-34 read as follows:

11-35 Sec. 172.057. WITHDRAWN, DECEASED, OR INELIGIBLE  
 11-36 CANDIDATE'S NAME OMITTED FROM GENERAL PRIMARY BALLOT. A  
 11-37 candidate's name shall be omitted from the general primary election  
 11-38 ballot if the candidate withdraws, dies, or is declared ineligible  
 11-39 on or before the 79th [~~62nd~~] day before general primary election  
 11-40 day.

11-41 SECTION 35. Subsection (a), Section 172.058, Election Code,  
 11-42 is amended to read as follows:

11-43 (a) If a candidate who has made an application for a place on  
 11-44 the general primary election ballot that complies with the  
 11-45 applicable requirements dies or is declared ineligible after the  
 11-46 79th [~~62nd~~] day before general primary election day, the  
 11-47 candidate's name shall be placed on the ballot and the votes cast  
 11-48 for the candidate shall be counted and entered on the official  
 11-49 election returns in the same manner as for the other candidates.

11-50 SECTION 36. Subsection (a), Section 172.059, Election Code,  
 11-51 is amended to read as follows:

11-52 (a) A candidate for nomination may not withdraw from the  
 11-53 runoff primary election after 5 p.m. of the 8th [~~10th~~] day after  
 11-54 general primary election day.

11-55 SECTION 37. Subsection (c), Section 172.082, Election Code,  
 11-56 is amended to read as follows:

11-57 (c) The drawing shall be conducted at the county seat not  
 11-58 later than the fourth Tuesday in December of an odd-numbered year  
 11-59 [~~53rd day before general primary election day~~].

11-60 SECTION 38. Subsection (b), Section 192.033, Election Code,  
 11-61 is amended to read as follows:

11-62 (b) The secretary of state shall deliver the certification  
 11-63 to the authority responsible for having the official ballot  
 11-64 prepared in each county before the later of the 68th [~~62nd~~] day  
 11-65 before presidential election day or the second business day after  
 11-66 the date of final adjournment of the party's national presidential  
 11-67 nominating convention.

11-68 SECTION 39. Subsection (b), Section 201.051, Election Code,  
 11-69 is amended to read as follows:

12-1 (b) For a vacancy to be filled by a special election to be  
 12-2 held on the date of the general election for state and county  
 12-3 officers, the election shall be ordered not later than the 78th  
 12-4 ~~[70th]~~ day before election day.

12-5 SECTION 40. Subsection (f), Section 201.054, Election Code,  
 12-6 is amended to read as follows:

12-7 (f) For a special election to be held on the date of the  
 12-8 general election for state and county officers, the day of the  
 12-9 filing deadline is the 75th ~~[67th]~~ day before election day.

12-10 SECTION 41. Subsections (a) and (c), Section 11.055,  
 12-11 Education Code, are amended to read as follows:

12-12 (a) Except as provided by Subsection (c), an application of  
 12-13 a candidate for a place on the ballot must be filed not later than 5  
 12-14 p.m. of the 71st ~~[62nd]~~ day before the date of the election. An  
 12-15 application may not be filed earlier than the 30th day before the  
 12-16 date of the filing deadline.

12-17 (c) For an election to be held on the date of the general  
 12-18 election for state and county officers, the day of the filing  
 12-19 deadline is the 78th ~~[70th]~~ day before election day.

12-20 SECTION 42. Subsection (b), Section 11.056, Education Code,  
 12-21 is amended to read as follows:

12-22 (b) A ~~[Except as provided by Subsection (c), a]~~ declaration  
 12-23 of write-in candidacy must be filed not later than the deadline  
 12-24 prescribed by Section 146.054, Election Code, for a write-in  
 12-25 candidate in a city election [5 p.m. of the fifth day after the date  
 12-26 an application for a place on the ballot is required to be filed].

12-27 SECTION 43. Subsection (e), Section 11.059, Education Code,  
 12-28 is amended to read as follows:

12-29 (e) Not later than December 31, 2011 ~~[2007]~~, the board of  
 12-30 trustees may adopt a resolution changing the length of the terms of  
 12-31 its trustees. The resolution must provide for a term of either  
 12-32 three or four years and specify the manner in which the transition  
 12-33 from the length of the former term to the modified term is  
 12-34 made. The transition must begin with the first regular election  
 12-35 for trustees that occurs after January 1, 2012 ~~[2008]~~, and a trustee  
 12-36 who serves on that date shall serve the remainder of that  
 12-37 term. This subsection expires January 1, 2017 ~~[2013]~~.

12-38 SECTION 44. Subsection (b), Section 130.0825, Education  
 12-39 Code, is amended to read as follows:

12-40 (b) A ~~[Except as provided by Subsection (c), a]~~ declaration  
 12-41 of write-in candidacy must be filed not later than the deadline  
 12-42 prescribed by Section 146.054, Election Code, for a write-in  
 12-43 candidate in a city election [5 p.m. of the fifth day after the date  
 12-44 an application for a place on the ballot is required to be filed].

12-45 SECTION 45. Subsection (d), Section 285.131, Health and  
 12-46 Safety Code, is amended to read as follows:

12-47 (d) A ~~[Except as provided by Subsection (g), a]~~ declaration  
 12-48 of write-in candidacy must be filed not later than the deadline  
 12-49 prescribed by Section 146.054, Election Code, for a write-in  
 12-50 candidate in a city election [5 p.m. of the fifth day after the date  
 12-51 an application for a place on the ballot is required to be filed].

12-52 SECTION 46. Subchapter A, Chapter 21, Local Government  
 12-53 Code, is amended by adding Section 21.004 to read as follows:

12-54 Sec. 21.004. CHANGE OF LENGTH OR STAGGERING OF TERMS IN  
 12-55 GENERAL-LAW MUNICIPALITY. (a) This section applies only to a  
 12-56 general-law municipality whose governing body is composed of  
 12-57 members that serve:

12-58 (1) a term of one or three years; or

12-59 (2) staggered terms.

12-60 (b) Not later than December 31, 2012, the governing body of  
 12-61 the general-law municipality may adopt a resolution:

12-62 (1) changing the length of the terms of its members to  
 12-63 two years; or

12-64 (2) providing for the election of all members of the  
 12-65 governing body at the same election.

12-66 (c) The resolution must specify the manner in which the  
 12-67 transition in the length of terms is made. The transition must begin  
 12-68 with the first regular election for members of the governing body  
 12-69 that occurs after January 1, 2013, and a member who serves on that

13-1 date shall serve the remainder of that term.

13-2 (d) This section expires January 1, 2016.

13-3 SECTION 47. Subsection (d), Section 63.0945, Water Code, is  
13-4 amended to read as follows:

13-5 (d) A [Except as provided by Subsection (f), a] declaration  
13-6 of write-in candidacy must be filed not later than the deadline  
13-7 prescribed by Section 146.054, Election Code, for a write-in  
13-8 candidate in a city election [5 p.m. of the fifth day after the date  
13-9 an application for a place on the ballot is required to be filed].

13-10 SECTION 48. To the extent of any conflict, this Act prevails  
13-11 over another Act of the 82nd Legislature, Regular Session, 2011,  
13-12 regardless of the relative dates of enactment.

13-13 SECTION 49. The secretary of state shall adopt rules as  
13-14 necessary to implement this Act, including the adjustment or  
13-15 modification of any affected date, deadline, or procedure.

13-16 SECTION 50. The following are repealed:

- 13-17 (1) Subsection (a-1), Section 41.0052, Election Code;
- 13-18 (2) Subsection (e), Section 11.056, and Subsection
- 13-19 (e), Section 130.0825, Education Code;
- 13-20 (3) Subsection (g), Section 285.131, Health and Safety
- 13-21 Code; and
- 13-22 (4) Subsection (f), Section 63.0945, Water Code.

13-23 SECTION 51. (a) This section applies only to a political  
13-24 subdivision that elects the members of its governing body to a term  
13-25 that consists of an odd number of years.

13-26 (b) Not later than December 31, 2011, the governing body of  
13-27 the political subdivision may adopt a resolution changing the  
13-28 length of the terms of its members to an even number of years. The  
13-29 resolution must specify the manner in which the transition from the  
13-30 length of the former term to the modified term is made. The  
13-31 transition must begin with the first regular election for members  
13-32 of the governing body that occurs after January 1, 2012, and a  
13-33 member who serves on that date shall serve the remainder of that  
13-34 term.

13-35 (c) This section expires January 1, 2020.

13-36 SECTION 52. The changes in law made by this Act do not apply  
13-37 to an election held on November 8, 2011.

13-38 SECTION 53. This Act takes effect September 1, 2011.

13-39 \* \* \* \* \*