

By: Darby

H.B. No. 3497

A BILL TO BE ENTITLED

AN ACT

relating to the inclusion in the results of an election of ballots that were mistakenly not counted.

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

SECTION 1. Chapter 67, Election Code, is amended by adding Section 67.0045 to read as follows:

Sec. 67.0045. DISCOVERY OF ADDITIONAL BALLOTS AFTER LOCAL CANVASS. (a) If, before the 10th day after the date the local canvass is conducted, the general custodian of election records discovers legal ballots that were not counted and included in the local canvass of the election, the custodian shall notify the presiding officer of the local canvassing authority of the discovery.

(b) A presiding officer who is notified under Subsection (a) shall make an application to a district court of the county in which the canvassing authority is located for disposition of the ballots. The presiding officer shall provide notice to each entity that held an election for which the discovered ballots would affect the results.

(c) Not later than the third day after the date an application is made under Subsection (b), the district court shall hold a hearing on the application. The district court shall provide notice of the time of the hearing to the presiding officer of the local canvassing authority and each entity required to be notified

1 under Subsection (b).

2 (d) Following the hearing, the court shall take any
3 necessary action to include legal ballots that were not counted in
4 the results of the election, including a revision of the totals of
5 the final canvass. Action taken under this subsection does not
6 affect the ability of a person to bring an election contest or
7 request a recount, except that a petition for recount must be filed
8 not later than the second day after the date the court enters an
9 order under this subsection.

10 SECTION 2. This Act takes effect September 1, 2011.