

# SENATE AMENDMENTS

2<sup>nd</sup> Printing

By: Torres, Burkett, White, et al.

H.B. No. 2173

A BILL TO BE ENTITLED

AN ACT

relating to a pilot program allowing certain military overseas voters to receive and cast a ballot electronically.

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

SECTION 1. Chapter 101, Election Code, is amended by adding Section 101.0072 to read as follows:

Sec. 101.0072. PILOT PROGRAM FOR ELECTRONIC TRANSMISSION OF BALLOTS TO AND FROM OVERSEAS MILITARY VOTERS. (a) Not later than July 1, 2012, the secretary of state shall prescribe procedures to implement a pilot program to allow the electronic transmission of balloting materials to, and the electronic transmission of a voted ballot by, a member of the armed forces of the United States who is on active duty overseas for the general election for state and county officers in 2012. A county may participate in the pilot program only if:

(1) the early voting clerk of the county makes a request to the secretary of state to participate; and

(2) the secretary of state approves the request.

(b) The procedures must:

(1) require that the early voting clerk of a participating county send balloting materials to an e-mail address in a form and manner prescribed by the secretary of state if the voter:

(A) is an FPCA registrant and is eligible for

1 early voting by mail under Section 101.001;

2 (B) provides a current address that is located  
3 outside the United States and is voting from outside the United  
4 States;

5 (C) provides an e-mail address that contains the  
6 suffix ".mil"; and

7 (D) requests that balloting materials be sent by  
8 electronic transmission;

9 (2) provide for the verification of the voter;

10 (3) provide for the security of the transmission by  
11 having the balloting materials returned to the secretary of state  
12 for verification and redistribution;

13 (4) require the early voting clerk to maintain a  
14 record of each ballot received under this section; and

15 (5) require that the balloting materials be sent to  
16 and returned from the e-mail address provided under Subdivision  
17 (1)(C).

18 (c) An e-mail address provided under this section is  
19 confidential and does not constitute public information for  
20 purposes of Chapter 552, Government Code. The early voting clerk  
21 shall ensure that an e-mail address provided under this section is  
22 excluded from disclosure.

23 (d) If a voter returns both a voted ballot mailed to the  
24 voter under Section 101.007(a) and a voted ballot transmitted  
25 electronically under this section, only the ballot that was  
26 transmitted electronically may be counted.

27 (e) The secretary of state shall adopt rules as necessary to

1 implement this section.

2 (f) At the conclusion of the pilot program established under  
3 this section, but not later than February 15, 2013, the secretary of  
4 state shall file a report on the program with the legislature. The  
5 report may include the secretary of state's:

6 (1) recommendations relating to the continued  
7 feasibility of providing balloting materials by electronic  
8 transmission to military overseas voters; and

9 (2) suggestions for permanent statutory authority  
10 regarding the provision of balloting materials by electronic  
11 transmission.

12 (g) This section expires February 16, 2013.

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

# ADOPTED

MAY 23 2011

*Atty. Gen.*  
Secretary of the Senate

*Leticia VandePutte*

By: \_\_\_\_\_

H.B. No. 2173

Substitute the following for H.B. No. 2173:

By: *Leticia VandePutte*

C.S.H.B. No. 2173

## A BILL TO BE ENTITLED

1 AN ACT  
2 relating to the adoption of certain voting procedures and to  
3 certain elections, including procedures necessary to implement the  
4 federal Military and Overseas Voter Empowerment Act, deadlines for  
5 declaration of candidacy and dates for certain elections, and to  
6 terms of certain elected officials.

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

8 SECTION 1. Chapter 101, Election Code, is amended to read as  
9 follows:

10 CHAPTER 101. VOTING BY RESIDENT FEDERAL POSTCARD APPLICANT

11 SUBCHAPTER A. GENERAL PROVISIONS

12 Sec. 101.001. ELIGIBILITY. A person is eligible for early  
13 voting by mail as provided by this chapter if:

14 (1) the person is qualified to vote in this state or,  
15 if not registered to vote in this state, would be qualified if  
16 registered; and

17 (2) the person is:

18 (A) a member of the armed forces of the United  
19 States, or the spouse or a dependent of a member;

20 (B) a member of the merchant marine of the United  
21 States, or the spouse or a dependent of a member; or

22 (C) domiciled in this state but temporarily  
23 living outside the territorial limits of the United States and the  
24 District of Columbia.

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1 Sec. 101.002. GENERAL CONDUCT OF VOTING. Voting under this  
2 chapter shall be conducted and the results shall be processed as  
3 provided by Subtitle A for early voting by mail, except as otherwise  
4 provided by this chapter.

5 Sec. 101.003. DEFINITIONS. [~~FORM AND CONTENTS OF~~  
6 ~~APPLICATION.~~ (a) ~~An application for a ballot to be voted under~~  
7 ~~this chapter must:~~

8 [~~(1) be submitted on an official federal postcard~~  
9 ~~application form; and~~

10 [~~(2) include the information necessary to indicate~~  
11 ~~that the applicant is eligible to vote in the election for which the~~  
12 ~~ballot is requested.~~

13 [~~(b)~~] In this chapter:

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

19 (2) "FPCA registrant" means a person registered to  
20 vote under Section 101.055.

21 Sec. 101.004. NOTING FPCA REGISTRATION ON POLL LIST. For  
22 each FPCA registrant accepted to vote, a notation shall be made  
23 beside the voter's name on the early voting poll list indicating  
24 that the voter is an FPCA registrant.

25 Sec. 101.005. NOTING FPCA REGISTRATION AND E-MAIL ON EARLY  
26 VOTING ROSTER. The entry on the early voting roster pertaining to a  
27 voter under this chapter who is an FPCA registrant must include a

1 notation indicating that the voter is an FPCA registrant. The early  
2 voting clerk shall note on the early voting by mail roster each  
3 e-mail of a ballot under Subchapter C.

4 Sec. 101.006. EXCLUDING FPCA REGISTRANT FROM PRECINCT EARLY  
5 VOTING LIST. A person to whom a ballot is provided under this  
6 chapter is not required to be included on the precinct early voting  
7 list if the person is an FPCA registrant.

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

15 (b) The secretary of state is designated as the state  
16 coordinator between military and overseas voters and county  
17 election officials. A county election official shall:

18 (1) cooperate with the secretary of state to ensure  
19 that military and overseas voters timely receive accurate balloting  
20 materials that a voter is able to cast in time for the election; and

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

24 (c) The secretary of state may adopt rules as necessary to  
25 implement this section.

26 Sec. 101.008. STATUS OF APPLICATION OR BALLOT VOTED. The  
27 secretary of state, in coordination with local election officials,

1 shall implement an electronic free-access system by which a person  
2 eligible for early voting by mail under this chapter or Chapter 114  
3 may determine by telephone, by e-mail, or over the Internet  
4 whether:

5 (1) the person's federal postcard application or other  
6 registration or ballot application has been received and accepted;  
7 and

8 (2) the person's ballot has been received and the  
9 current status of the ballot.

10 SUBCHAPTER B. SUBMISSION OF FEDERAL POSTCARD APPLICATION

11 Sec. 101.051. FORM AND CONTENTS OF APPLICATION. An  
12 application for a ballot to be voted under this subchapter must:

13 (1) be submitted on an official federal postcard  
14 application form; and

15 (2) include the information necessary to indicate that  
16 the applicant is eligible to vote in the election for which the  
17 ballot is requested.

18 Sec. 101.052 [~~101.004~~]. SUBMITTING APPLICATION. (a) A  
19 federal postcard application must be submitted to the early voting  
20 clerk for the election who serves the election precinct of the  
21 applicant's residence.

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

23 (1) mail; or

24 (2) electronic transmission of an image of the  
25 application under procedures prescribed by the secretary of state.

26 (b) A federal postcard application may be submitted at any  
27 time during the calendar year in which the election for which a

1 ballot is requested occurs, but not later than the deadline for  
2 submitting a regular application for a ballot to be voted by mail.

3 (c) A federal postcard application requesting a ballot for  
4 an election to be held in January or February may be submitted in  
5 the preceding calendar year but not earlier than the earliest date  
6 for submitting a regular application for a ballot to be voted by  
7 mail.

8 (d) A timely application that is addressed to the wrong  
9 early voting clerk shall be forwarded to the proper early voting  
10 clerk not later than the day after the date it is received by the  
11 wrong clerk.

12 (e) An applicant who otherwise complies with applicable  
13 requirements is entitled to receive a full ballot to be voted by  
14 mail under this chapter if:

15 (1) the applicant submits a federal postcard  
16 application to the early voting clerk on or before the 20th day  
17 before election day; and

18 (2) the application contains the information that is  
19 required for registration under Title 2.

20 (f) The applicant is entitled to receive only a federal  
21 ballot to be voted by mail under Chapter 114 if:

22 (1) the applicant submits the federal postcard  
23 application to the early voting clerk after the date provided by  
24 Subsection (e)(1) and before the sixth day before election day; and

25 (2) the application contains the information that is  
26 required for registration under Title 2.

27 (g) An applicant who submits a federal postcard application



1 to the early voting clerk on or after the sixth day before election  
2 day is not entitled to receive a ballot by mail for that election.

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

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

19 (1) an application that does not contain a  
20 cancellation mark is considered to be timely if it is received by  
21 the early voting clerk on or before the 15th day before election  
22 day; and

23 (2) if the 20th day before the date of an election is a  
24 Saturday, Sunday, or legal state or national holiday, an  
25 application is considered to be timely if it is submitted to the  
26 early voting clerk on or before the next regular business day.

27 (j) If the early voting clerk determines that an application

1 that is submitted before the time prescribed by Subsection (e)(1)  
2 does not contain the information that is required for registration  
3 under Title 2, the clerk shall notify the applicant of that fact.  
4 If the applicant has provided a telephone number or an address for  
5 receiving mail over the Internet, the clerk shall notify the  
6 applicant by that medium.

7 (k) If the applicant submits the missing information before  
8 the time prescribed by Subsection (e)(1), the applicant is entitled  
9 to receive a full ballot to be voted by mail under this chapter. If  
10 the applicant submits the missing information after the time  
11 prescribed by Subsection (e)(1), the applicant is entitled to  
12 receive a full ballot to be voted by mail for the next election that  
13 occurs:

14 (1) in the same calendar year; and

15 (2) after the 30th day after the date the information  
16 is submitted.

17 (l) For purposes of determining the end of the period that  
18 an application may be submitted under Subsection (f)(1), an  
19 application is considered to be submitted at the time it is received  
20 by the early voting clerk.

21 (m) The secretary of state by rule shall establish the date  
22 on which a federal postcard application is considered to be  
23 electronically submitted to the early voting clerk.

24 Sec. 101.053 [~~101.0041~~]. ACTION BY EARLY VOTING CLERK ON  
25 CERTAIN APPLICATIONS. The early voting clerk shall notify the  
26 voter registrar of a federal postcard application submitted by an  
27 applicant that states a voting residence address located outside

1 the registrar's county.

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

7           (b) An application that does not identify the election for  
8 which a ballot is requested shall be treated as if it requests a  
9 ballot for:

10                   (1) each general election in which the clerk conducts  
11 early voting; and

12                   (2) the general primary election if the application  
13 indicates party preference and is submitted to the early voting  
14 clerk for the primary.

15           (c) An application shall be treated as if it requests a  
16 ballot for[+]

17                   [~~(1)~~] a runoff election that results from an election  
18 for which a ballot is requested[+, and

19                   [~~(2)~~ each election for a federal office, including a  
20 primary or runoff election, that occurs on or before the date of the  
21 second general election for state and county officers that occurs  
22 after the date the application is submitted].

23           (d) An application requesting a ballot for more than one  
24 election shall be preserved for the period for preserving the  
25 precinct election records for the last election for which the  
26 application is effective.

27           Sec. 101.055 [~~101.006~~]. FPCA VOTER REGISTRATION. (a) The

1 submission of a federal postcard application that complies with the  
2 applicable requirements by an unregistered applicant constitutes  
3 registration by the applicant:

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

6 (2) under Title 2 unless the person indicates on the  
7 application that the person is residing outside the United States  
8 indefinitely.

9 (b) For purposes of registering to vote under this chapter,  
10 a person shall provide the address of the last place of residence of  
11 the person in this state or the last place of residence in this  
12 state of the person's parent or legal guardian.

13 (c) The voter registrar shall register the person at the  
14 address provided under Subsection (b) unless that address no longer  
15 is recognized as a residential address, in which event the  
16 registrar shall assign the person to an address under procedures  
17 prescribed by the secretary of state [~~In this chapter, "FPCA~~  
18 ~~registrant" means a person registered to vote under this section].~~

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

27 (b) The address to which the balloting materials are sent to

1 a voter must be:

2 (1) an address outside the county of the voter's  
3 residence; or

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

6 (c) If the address to which the balloting materials are to  
7 be sent is within the county served by the early voting clerk, the  
8 federal postcard application must indicate that the balloting  
9 materials will be forwarded or delivered to the voter at a location  
10 outside the United States.

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

14 [~~Sec. 101.009. NOTING FPCA REGISTRATION ON POLL LIST. For~~  
15 ~~each FPCA registrant accepted to vote, a notation shall be made~~  
16 ~~beside the voter's name on the early voting poll list indicating~~  
17 ~~that the voter is an FPCA registrant.~~

18 [~~Sec. 101.010. NOTING FPCA REGISTRATION ON EARLY VOTING~~  
19 ~~ROSTER. The entry on the early voting roster pertaining to a voter~~  
20 ~~under this chapter who is an FPCA registrant must include a notation~~  
21 ~~indicating that the voter is an FPCA registrant.~~

22 [~~Sec. 101.011. EXCLUDING FPCA REGISTRANT FROM PRECINCT~~  
23 ~~EARLY VOTING LIST. A person to whom a ballot is provided under this~~  
24 ~~chapter is not required to be included on the precinct early voting~~  
25 ~~list if the person is an FPCA registrant.]~~

26 Sec. 101.058 [~~101.012~~]. OFFICIAL CARRIER ENVELOPE. The  
27 officially prescribed carrier envelope for voting under this

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

9 SUBCHAPTER C. E-MAIL TRANSMISSION OF BALLOTING MATERIALS

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

13 Sec. 101.102. REQUEST FOR BALLOTING MATERIALS. (a) A  
14 person eligible to vote under this chapter may request from the  
15 appropriate early voting clerk e-mail transmission of balloting  
16 materials under this subchapter.

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

19 (1) the requestor has submitted a valid federal  
20 postcard application and:

21 (A) if the requestor is a person described by  
22 Section 101.001(2)(C), has provided a current mailing address that  
23 is located outside the United States; or

24 (B) if the requestor is a person described by  
25 Section 101.001(2)(A) or (B), has provided a current mailing  
26 address that is located outside the requestor's county of  
27 residence;

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

2                   (A) corresponds to the address on file with the  
3 requestor's federal postcard application; or

4                   (B) is stated on a newly submitted federal  
5 postcard application;

6           (3) the request is submitted on or before the seventh  
7 day before the date of the election; and

8           (4) a marked ballot for the election from the  
9 requestor has not been received by the early voting clerk.

10           Sec. 101.103. CONFIDENTIALITY OF E-MAIL ADDRESS. An e-mail  
11 address used under this subchapter to request balloting materials  
12 is confidential and does not constitute public information for  
13 purposes of Chapter 552, Government Code. An early voting clerk  
14 shall ensure that a voter's e-mail address provided under this  
15 subchapter is excluded from public disclosure.

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

18                   (1) an election in which an office of the federal  
19 government appears on the ballot, including a primary election;

20                   (2) an election to fill a vacancy in the legislature  
21 unless:

22                           (A) the election is ordered as an emergency  
23 election under Section 41.0011; or

24                           (B) the election is held as an expedited election  
25 under Section 203.013; or

26                   (3) an election held jointly with an election  
27 described by Subdivision (1) or (2).

1           Sec. 101.105. BALLOTING MATERIALS TO BE SENT BY E-MAIL.

2 Balloting materials to be sent by e-mail under this subchapter  
3 include:

4           (1) the appropriate ballot;

5           (2) ballot instructions, including instructions that  
6 inform a voter that the ballot must be returned by mail to be  
7 counted;

8           (3) instructions prescribed by the secretary of state  
9 on:

10           (A) how to print a return envelope from the  
11 federal Voting Assistance Program website; and

12           (B) how to create a carrier envelope or signature  
13 sheet for the ballot; and

14           (4) a list of certified write-in candidates, if  
15 applicable.

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

21           (b) The secretary of state shall prescribe procedures for  
22 the retransmission of balloting materials following an  
23 unsuccessful transmission of the materials to a voter.

24           Sec. 101.107. RETURN OF BALLOT. (a) A voter described by  
25 Section 101.001(2)(A) or (B) must be voting from outside the  
26 voter's county of residence. A voter described by Section  
27 101.001(2)(C) must be voting from outside the United States.



1       (b) A voter who receives a ballot under this subchapter must  
2 return the ballot in the same manner as required under Section  
3 101.057 and, except as provided by Chapter 105, may not return the  
4 ballot by electronic transmission.

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

8       (d) The deadline for the return of a ballot under this  
9 section is the same deadline as provided in Section 86.007.

10       Sec. 101.108. TRACKING OF BALLOTING MATERIALS. The  
11 secretary of state by rule shall create a tracking system under  
12 which an FPCA registrant may determine whether a voted ballot has  
13 been received by the early voting clerk. Each county that sends  
14 ballots to FPCA registrants shall provide information required by  
15 the secretary of state to implement the system.

16       Sec. 101.109. RULES. (a) The secretary of state may adopt  
17 rules as necessary to implement this subchapter.

18       (b) The secretary of state may provide for an alternate  
19 secure method of electronic ballot transmission under this  
20 subchapter instead of transmission by e-mail.

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

1 SECTION 2. Section 2.025, Election Code, is amended by  
2 amending Subsection (a) and adding Subsection (d) to read as  
3 follows:

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

8 (d) A runoff election for a special election to fill a  
9 vacancy in Congress or a special election to fill a vacancy in the  
10 legislature to which Section 101.104 applies shall be held not  
11 earlier than the 70th day or later than the 77th day after the date  
12 the final canvass of the main election is completed.

13 SECTION 3. Subsection (c), Section 3.005, Election Code, is  
14 amended to read as follows:

15 (c) For an election to be held on:

16 (1) the date of the general election for state and  
17 county officers, the election shall be ordered not later than the  
18 78th [70th] day before election day; and

19 (2) a uniform election date other than the date of the  
20 general election for state and county officers, the election shall  
21 be ordered not later than the 71st day before election day.

22 SECTION 4. Section 41.001, Election Code, is amended by  
23 amending Subsection (a) and adding Subsection (d) to read as  
24 follows:

25 (a) Except as otherwise provided by this subchapter, each  
26 general or special election in this state shall be held on one of  
27 the following dates:

1           (1) the second Saturday in May in an odd-numbered  
2 year;

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

6           (3) [~~2~~] the first Tuesday after the first Monday in  
7 November.

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

12           SECTION 5. Section 41.0052, Election Code, is amended to  
13 read as follows:

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

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

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

1       (c) A home-rule city may implement the change authorized by  
2 Subsection (a) through the adoption of a resolution. The change  
3 contained in the resolution supersedes a city charter provision  
4 that requires a different general election date.

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

10       SECTION 6. Subsection (b), Section 41.007, Election Code,  
11 is amended to read as follows:

12       (b) The runoff primary election date is the fourth Tuesday  
13 in May [~~second Tuesday in April~~] following the general primary  
14 election.

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

17       (c) Section 1.006 does not apply to this section.

18       SECTION 8. Subsection (b), Section 86.004, Election Code,  
19 is amended to read as follows:

20       (b) For an election to which Section 101.104 applies [~~the~~  
21 ~~general election for state and county officers~~], the balloting  
22 materials for a voter who indicates on the application for a ballot  
23 to be voted by mail or the federal postcard application that the  
24 voter is eligible to vote early by mail as a consequence of the  
25 voter's being outside the United States shall be mailed on or before  
26 the later of the 45th day before election day or the seventh  
27 calendar day after the date the clerk receives the application.

1 However, if it is not possible to mail the ballots by the deadline  
2 of the 45th day before election day, the clerk shall notify the  
3 secretary of state within 24 hours of knowing that the deadline will  
4 not be met. The secretary of state shall monitor the situation and  
5 advise the clerk, who shall mail the ballots as soon as possible in  
6 accordance with the secretary of state's guidelines.

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

9 (b) If the return is timely, the clerk shall enclose the  
10 carrier envelope and the voter's early voting ballot application in  
11 a jacket envelope. The clerk shall also include in the jacket  
12 envelope:

13 (1) a copy of the voter's federal postcard application  
14 if the ballot is voted under Chapter 101; and

15 (2) the signature cover sheet, if the ballot is voted  
16 under Chapter 105.

17 SECTION 10. Subchapter B, Chapter 87, Election Code, is  
18 amended by adding Section 87.0223 to read as follows:

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

25 (1) both ballots are returned; or

26 (2) the deadline for returning marked ballots under  
27 Section 86.007 has passed.

1       (b) If both the ballot provided by regular mail and the  
2 ballot provided by e-mail are returned before the deadline, the  
3 early voting clerk shall deliver only the jacket envelope  
4 containing the ballot provided by e-mail to the board. The ballot  
5 provided by regular mail is considered to be a ballot not timely  
6 returned.

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

9       (f) In making the determination under Subsection (b)(2) for  
10 a ballot cast under Chapter 101 or 105, the board shall compare the  
11 signature on the carrier envelope or signature cover sheet with the  
12 signature of the voter on the federal postcard application.

13       SECTION 12. Section 87.043, Election Code, is amended by  
14 amending Subsection (a) and adding Subsection (d) to read as  
15 follows:

16       (a) The early voting ballot board shall place the carrier  
17 envelopes containing rejected ballots in an envelope and shall seal  
18 the envelope. More than one envelope may be used if necessary. The  
19 board shall keep a record of the number of rejected ballots in each  
20 envelope.

21       (d) A notation must be made on the carrier envelope of any  
22 ballot that was rejected after the carrier envelope was opened and  
23 include the reason the envelope was opened and the ballot was  
24 rejected.

25       SECTION 13. Section 87.0431, Election Code, is amended to  
26 read as follows:

27       Sec. 87.0431. NOTICE OF REJECTED BALLOT. Not later than the

1 10th day after election day, the presiding judge of the early voting  
2 ballot board shall deliver written notice of the reason for the  
3 rejection of a ballot to the voter at the residence address on the  
4 ballot application. If the ballot was transmitted to the voter by  
5 e-mail under Subchapter C, Chapter 101, the presiding judge shall  
6 also provide the notice to the e-mail address to which the ballot  
7 was sent.

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

10 (a) The early voting ballot board shall place each  
11 application for a ballot voted by mail in its corresponding jacket  
12 envelope. For a ballot voted under Chapter 101 or 105, the board  
13 shall also place the copy of the voter's federal postcard  
14 application or signature cover sheet in the same location as the  
15 carrier envelope. If the voter's ballot was accepted, the board  
16 shall also place the carrier envelope in the jacket envelope.  
17 However, if the jacket envelope is to be used in a subsequent  
18 election, the carrier envelope shall be retained elsewhere.

19 SECTION 15. Section 105.003, Election Code, is amended to  
20 read as follows:

21 Sec. 105.003. USE OF FEDERAL WRITE-IN ABSENTEE BALLOT FOR  
22 ELECTIONS FOR FEDERAL OFFICE. The secretary of state shall  
23 prescribe procedures to allow a voter who qualifies to vote by a  
24 federal write-in absentee ballot to vote through use of a federal  
25 write-in absentee ballot in:

26 (1) any general, special, primary, or runoff election  
27 for federal office; or

1           (2) an election for any office for which balloting  
2 materials may be sent under Section 101.104.

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

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

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

12          (c) For an election to be held on:

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

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

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

21          (d) For an election to be held on:

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

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



1 SECTION 19. Subsection (b), Section 144.006, Election Code,  
2 is amended to read as follows:

3 (b) For an election to be held on:

4 (1) the date of the general election for state and  
5 county officers, the day of the filing deadline is the 78th [~~67th~~]  
6 day before election day; and

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

10 SECTION 20. Subsection (e), Section 145.037, Election Code,  
11 is amended to read as follows:

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

14 SECTION 21. Subsection (b), Section 145.038, Election Code,  
15 is amended to read as follows:

16 (b) The state chair must deliver the certification of the  
17 replacement nominee not later than 5 p.m. of the 69th [~~67th~~] day  
18 before election day.

19 SECTION 22. Subsection (f), Section 145.092, Election Code,  
20 is amended to read as follows:

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

25 SECTION 23. Subsection (a), Section 145.094, Election Code,  
26 is amended to read as follows:

27 (a) The name of a candidate shall be omitted from the ballot

1 if the candidate:

2 (1) dies before the second day before the date of the  
3 deadline for filing the candidate's application for a place on the  
4 ballot;

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

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

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

14 SECTION 24. Subsection (a), Section 145.096, Election Code,  
15 is amended to read as follows:

16 (a) Except as provided by Subsection (b), a candidate's name  
17 shall be placed on the ballot if the candidate:

18 (1) dies on or after the second day before the deadline  
19 for filing the candidate's application for a place on the ballot;

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

23 (3) is declared ineligible after 5 p.m. of the 53rd day  
24 before election day, in an election subject to Section 145.092(b);  
25 or

26 (4) is declared ineligible after 5 p.m. of the 71st  
27 [~~67th~~] day before election day, in an election subject to Section

1 145.092(f).

2 SECTION 25. Subsections (a) and (b), Section 146.025,  
3 Election Code, are amended to read as follows:

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

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

15 SECTION 26. Subsection (c), Section 146.029, Election Code,  
16 is amended to read as follows:

17 (c) Not later than the 68th [~~62nd~~] day before election day,  
18 the certifying authority shall deliver the certification to the  
19 authority responsible for having the official ballot prepared in  
20 each county in which the office sought by the candidate is to be  
21 voted on.

22 SECTION 27. Subsection (b), Section 146.054, Election Code,  
23 is amended to read as follows:

24 (b) For an election to be held on:

25 (1) the date of the general election for state and  
26 county officers, the day of the filing deadline is the 74th [~~67th~~]  
27 day before election day; and

1           (2) a uniform election date other than the date of the  
2 general election for state and county officers, the day of the  
3 filing deadline is the 71st day before election day.

4           SECTION 28. Subsection (b), Section 161.008, Election Code,  
5 is amended to read as follows:

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

11           SECTION 29. Subsection (a), Section 172.023, Election Code,  
12 is amended to read as follows:

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

18           SECTION 30. Subsection (d), Section 171.0231, Election  
19 Code, is amended to read as follows:

20           (d) A declaration of write-in candidacy must be filed not  
21 later than 5 p.m. of the 85th [~~62nd~~] day before general primary  
22 election day. However, if a candidate whose name is to appear on  
23 the ballot for the office of county chair or precinct chair dies or  
24 is declared ineligible after the third day before the date of the  
25 regular filing deadline prescribed by this subsection, a  
26 declaration of write-in candidacy for the office sought by the  
27 deceased or ineligible candidate may be filed not later than 5 p.m.

1 of the 81st [~~59th~~] day before election day.

2 SECTION 31. Subsection (b), Section 172.028, Election Code,  
3 is amended to read as follows:

4 (b) Not later than the 81st [~~57th~~] day before general  
5 primary election day, the state chair shall deliver the  
6 certification to the county chair in each county in which the  
7 candidate's name is to appear on the ballot.

8 SECTION 32. Subsection (a), Section 172.052, Election Code,  
9 is amended to read as follows:

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

13 SECTION 33. Subsections (a) and (b), Section 172.054,  
14 Election Code, are amended to read as follows:

15 (a) The deadline for filing an application for a place on  
16 the general primary election ballot is extended as provided by this  
17 section if a candidate who has made an application that complies  
18 with the applicable requirements:

19 (1) dies on or after the fifth day before the date of  
20 the regular filing deadline and on or before the 79th [~~62nd~~] day  
21 before general primary election day;

22 (2) holds the office for which the application was  
23 made and withdraws or is declared ineligible on or after the date of  
24 the regular filing deadline and on or before the 79th [~~62nd~~] day  
25 before general primary election day; or

26 (3) withdraws or is declared ineligible during the  
27 period prescribed by Subdivision (2), and at the time of the

1 withdrawal or declaration of ineligibility no other candidate has  
2 made an application that complies with the applicable requirements  
3 for the office sought by the withdrawn or ineligible candidate.

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

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

12 Sec. 172.057. WITHDRAWN, DECEASED, OR INELIGIBLE  
13 CANDIDATE'S NAME OMITTED FROM GENERAL PRIMARY BALLOT. A  
14 candidate's name shall be omitted from the general primary election  
15 ballot if the candidate withdraws, dies, or is declared ineligible  
16 on or before the 79th [~~62nd~~] day before general primary election  
17 day.

18 SECTION 35. Subsection (a), Section 172.058, Election Code,  
19 is amended to read as follows:

20 (a) If a candidate who has made an application for a place on  
21 the general primary election ballot that complies with the  
22 applicable requirements dies or is declared ineligible after the  
23 79th [~~62nd~~] day before general primary election day, the  
24 candidate's name shall be placed on the ballot and the votes cast  
25 for the candidate shall be counted and entered on the official  
26 election returns in the same manner as for the other candidates.

27 SECTION 36. Subsection (a), Section 172.059, Election Code,

1 is amended to read as follows:

2 (a) A candidate for nomination may not withdraw from the  
3 runoff primary election after 5 p.m. of the 8th [~~10th~~] day after  
4 general primary election day.

5 SECTION 37. Subsection (c), Section 172.082, Election Code,  
6 is amended to read as follows:

7 (c) The drawing shall be conducted at the county seat not  
8 later than the fourth Tuesday in December of an odd-numbered year  
9 [~~53rd day before general primary election day~~].

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

12 (b) The secretary of state shall deliver the certification  
13 to the authority responsible for having the official ballot  
14 prepared in each county before the later of the 68th [~~62nd~~] day  
15 before presidential election day or the second business day after  
16 the date of final adjournment of the party's national presidential  
17 nominating convention.

18 SECTION 39. Subsection (b), Section 201.051, Election Code,  
19 is amended to read as follows:

20 (b) For a vacancy to be filled by a special election to be  
21 held on the date of the general election for state and county  
22 officers, the election shall be ordered not later than the 78th  
23 [~~70th~~] day before election day.

24 SECTION 40. Subsection (f), Section 201.054, Election Code,  
25 is amended to read as follows:

26 (f) For a special election to be held on the date of the  
27 general election for state and county officers, the day of the

1 filing deadline is the 75th [~~67th~~] day before election day.

2 SECTION 41. Subsections (a) and (c), Section 11.055,  
3 Education Code, are amended to read as follows:

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

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

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

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

19 SECTION 43. Subsection (e), Section 11.059, Education Code,  
20 is amended to read as follows:

21 (e) Not later than December 31, 2011 [~~2007~~], the board of  
22 trustees may adopt a resolution changing the length of the terms of  
23 its trustees. The resolution must provide for a term of either  
24 three or four years and specify the manner in which the transition  
25 from the length of the former term to the modified term is  
26 made. The transition must begin with the first regular election  
27 for trustees that occurs after January 1, 2012 [~~2008~~], and a trustee



1 who serves on that date shall serve the remainder of that  
2 term. This subsection expires January 1, 2017 [~~2013~~].

3 SECTION 44. Subsection (b), Section 130.0825, Education  
4 Code, is amended to read as follows:

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

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

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

17 SECTION 46. Subchapter A, Chapter 21, Local Government  
18 Code, is amended by adding Section 21.004 to read as follows:

19 Sec. 21.004. CHANGE OF LENGTH OR STAGGERING OF TERMS IN  
20 GENERAL-LAW MUNICIPALITY. (a) This section applies only to a  
21 general-law municipality whose governing body is composed of  
22 members that serve:

23 (1) a term of one or three years; or

24 (2) staggered terms.

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

27 (1) changing the length of the terms of its members to

1 two years; or

2 (2) providing for the election of all members of the  
3 governing body at the same election.

4 (c) The resolution must specify the manner in which the  
5 transition in the length of terms is made. The transition must begin  
6 with the first regular election for members of the governing body  
7 that occurs after January 1, 2013, and a member who serves on that  
8 date shall serve the remainder of that term.

9 (d) This section expires January 1, 2016.

10 SECTION 47. Subsection (d), Section 63.0945, Water Code, is  
11 amended to read as follows:

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

17 SECTION 48. To the extent of any conflict, this Act prevails  
18 over another Act of the 82nd Legislature, Regular Session, 2011,  
19 regardless of the relative dates of enactment.

20 SECTION 49. The secretary of state shall adopt rules as  
21 necessary to implement this Act, including the adjustment or  
22 modification of any affected date, deadline, or procedure.

23 SECTION 50. The following are repealed:

24 (1) Subsection (a-1), Section 41.0052, Election Code;

25 (2) Subsection (e), Section 11.056, and Subsection  
26 (e), Section 130.0825, Education Code;

27 (3) Subsection (g), Section 285.131, Health and Safety

1 Code; and

2 (4) Subsection (f), Section 63.0945, Water Code.

3 SECTION 51. (a) This section applies only to a political  
4 subdivision that elects the members of its governing body to a term  
5 that consists of an odd number of years.

6 (b) Not later than December 31, 2011, the governing body of  
7 the political subdivision may adopt a resolution changing the  
8 length of the terms of its members to an even number of years. The  
9 resolution must specify the manner in which the transition from the  
10 length of the former term to the modified term is made. The  
11 transition must begin with the first regular election for members  
12 of the governing body that occurs after January 1, 2012, and a  
13 member who serves on that date shall serve the remainder of that  
14 term.

15 (c) This section expires January 1, 2020.

16 SECTION 52. The changes in law made by this Act do not apply  
17 to an election held on November 8, 2011.

18 SECTION 53. This Act takes effect September 1, 2011.

# ADOPTED

MAY 23 2011

*Arlene Spaw*  
Secretary of the Senate

*Patricia VandePutte*

FLOOR AMENDMENT NO. 1

BY: \_\_\_\_\_

1 Amend C.S.H.B. No. 2173 (senate committee printing) in  
2 SECTION 37 of the bill, in amended Section 172.082(c), Election  
3 Code (page 11, line 58), by striking "fourth Tuesday" and  
4 substituting "third Tuesday".

FLOOR AMENDMENT NO. 2

**ADOPTED**

BY: Craig Estes

MAY 23 2011

1 Amend C.S.H.B. No. 2173 <sup>Adopted</sup> (Committee printing) in  
2 SECTION 30 of the bill, by striking amended Section 171.0231(d),  
3 Election Code (page 10, lines 58-66) and substituting the  
4 following:

*Adopted*  
Secretary of the Senate

5 (d) A declaration of write-in candidacy must be filed not  
6 later than 6 [5] p.m. of the fifth [~~6<sup>th</sup>~~] day after the date of  
7 the regular filing deadline for the general primary election  
8 ~~[before general primary election day. However, if a candidate~~  
9 ~~whose name is to appear on the ballot for the office of county~~  
10 ~~chair or precinct chair dies or is declared ineligible after the~~  
11 ~~third day before the date of the regular filing deadline~~  
12 ~~prescribed by this subsection, a declaration of write in~~  
13 ~~candidacy for the office sought by the deceased or ineligible~~  
14 ~~candidate may be filed not later than 5 p.m. of the 59th day~~  
15 ~~before election day].~~

# ADOPTED

MAY 23 2011

*Arlene Spaw*  
Secretary of the Senate

FLOOR AMENDMENT NO. 3

BY *Erwin*

- 1) Amend H. B. 2173, SECTION 43, Subsection (e), Section 11.059, Education Code, to read as follows:

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

# ADOPTED

FLOOR AMENDMENT NO. 4

MAY 23 2011

BY: Patricia VandePutte

Atay Spew  
Secretary of the Senate

1 Amend C.S.H.B. No. 2173 (senate committee printing) in SECTION 5,  
2 Section 41.0052, Election Code (page 7, line 31) of the bill,  
3 after "(a)" insert "or provide for the election of all members  
4 of the governing body at the same election" and adjust  
5 accordingly.



MAY 23 2011

1 Amend H.B. No. 2173 by adding the following appropriately  
2 numbered SECTION to the bill and renumbering the remaining  
3 SECTIONS of the bill accordingly:

4 SECTION \_\_\_\_\_. Section 101.001, Election Code, is amended to read  
5 as follows:

6 Sec. 101.001. ELIGIBILITY. (a) A person is eligible for early  
7 voting by mail as provided by this chapter if:

8 (1) the person is qualified to vote in this state or,  
9 if not registered to vote in this state, would be qualified if  
10 registered; and

11 (2) the person is:

12 (A) a member of the armed forces of the United  
13 States, or the spouse or a dependent of a member;

14 (B) a member of the merchant marine of the United  
15 States, or the spouse or a dependent of a member; or

16 (C) domiciled in this state but temporarily  
17 living outside the territorial limits of the United States and  
18 the District of Columbia.

19 (b) Notwithstanding Subsection (a) and Chapter 114, a person who  
20 indicates on a federal postcard application that the person is a  
21 United States citizen residing outside the United States  
22 indefinitely is entitled to vote a full ballot as provided by  
23 this chapter if the person is otherwise eligible to vote under  
24 this chapter and is a registered voter at the address contained  
25 on the application.

26  
27 SECTION \_\_\_\_\_. Section 101.004, Election Code, is amended by  
28 adding Subsection (n) to read as follows:

29 (n) The early voting clerk shall provide notice to a person who  
30 indicates on a federal postcard application that the person is a  
31 United States citizen residing outside the United States  
32 indefinitely, other than a person described by Section  
33 101.001(b), that as a result of the person 's indication, the  
34 person is only eligible to vote a federal ballot as provided by  
35 Chapter 114. The secretary of state shall prescribe the form and  
36 manner of the notice provided under this subsection.

37  
38 SECTION \_\_\_\_\_.Chapter 101, Election Code, is amended by adding  
39 Section 101.014 to read as follows:

40 Sec. 101.014. NOTICE ON COUNTY WEBSITE FOR CITIZENS  
41 RESIDING OUTSIDE OF UNITED STATES INDEFINITELY. If a county  
42 maintains an Internet website to provide information on voting,  
43 the website must include information that describes the effects  
44 on the ballot a person will receive under state law if the person  
45 indicates on a federal postcard application that the person is a  
46 United States citizen residing outside the United States  
47 indefinitely.

48  
49 SECTION \_\_\_\_\_. Section 114.002, Election Code, is amended to  
50 read as follows:

51 Sec. 114.002. ELIGIBILITY. A United States citizen residing  
52 [dwelling] outside the United States is eligible to vote a  
53 federal ballot by mail if:

54 (1) the citizen's most recent domicile in the United States was  
55 in this state and the citizen is residing outside the United  
56 States indefinitely [citizen 's intent to return to this state is  
57 uncertain];

58 (2) the citizen would be eligible for registration as  
59 a voter in this state if a resident; and

60 (3) the citizen is not eligible to vote on federal  
61 offices in any other state.



1  
2 SECTION \_\_\_\_\_. The change in law made by this Act applies to a  
3 federal postcard application that requests a ballot for an  
4 electionthat is held on or after the effective date of this Act.

5  
6 SECTION \_\_\_\_\_. This Act takes effect September 1, 2011.

**ADOPTED**

FLOOR AMENDMENT NO. 6

MAY 23 2011

BY: *Mark Nathan*

*Antony Spaul*  
Secretary of the Senate

- 1 Amend C.S.H.B. 2173 by inserting an appropriately numbered
- 2 SECTION to read as follows:
- 3 SECTION \_\_. Section 41.0053, Election Code, is repealed.

**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE, 82ND LEGISLATIVE REGULAR SESSION**

**May 24, 2011**

**TO:** Honorable Joe Straus, Speaker of the House, House of Representatives

**FROM:** John S O'Brien, Director, Legislative Budget Board

**IN RE: HB2173** by Torres (Relating to the adoption of certain voting procedures and to certain elections, including procedures necessary to implement the federal Military and Overseas Voter Empowerment Act, deadlines for declaration of candidacy and dates for certain elections, and to terms of certain elected officials.), **As Passed 2nd House**

<p><b>No significant fiscal implication to the State is anticipated.</b></p>
--

The bill would provide voting procedures to implement the federal Military and Overseas Voter Empowerment (MOVE) Act.

The bill would allow certain voters residing indefinitely outside the United States to vote a full ballot.

The bill would require for each Federal Postcard Application (FPCA) registrant accepted to vote, a notation be made beside the voter's name on the early voting poll list and early voting roster indicating that the voter is an FPCA registrant. The early voting clerk would be required to note on the early voting by mail roster each e-mail of a ballot.

The Secretary of State (SOS) would be designated to provide information regarding voter registration procedures and absentee ballot procedures, including procedures related to the federal write-in absentee ballot, to be used by persons eligible to vote under the federal Uniformed and Overseas Citizens Absentee Voting Act.

SOS in coordination with local election officials would be required to implement an electronic free-access system by which certain persons eligible for early voting by mail may determine that their application and ballot have been received.

The bill would allow certain voters to request from early voting clerks e-mail transmission of balloting materials and the clerk would be required to ensure that a voter's e-mail address is excluded from public disclosure.

The Secretary of State (SOS) would be required to prescribe procedures for the retransmission of balloting materials following an unsuccessful transmission of the materials to a voter. SOS would also be required to create a tracking system under which a Federal Postcard Application registrant may determine whether a voted ballot has been received by the early voting clerk. In addition, SOS would be required to prescribe certain procedures and would be allowed to adopt rules for the implementation of this legislation. SOS would also be allowed to provide an alternate secure method of electronic ballot transmission. In addition, the bill would change various election related dates.

The clerks would be required to include in a jacket envelope a copy of the voter's federal postcard application and the signature cover sheet if the ballot is voted.

The early voting board would be required to keep a record of the number of rejected ballots. The board would also be required to make a notation on the carrier envelope of any ballot that was rejected after the carrier envelope was opened and include the reason the envelope was opened and the ballot was

rejected. If the ballot was transmitted by e-mail, the presiding judge would be required to provide the notice of rejected ballot to the e-mail address to which the ballot was sent.

The bill would repeal Sections 41.0052(a-1) and 41.0053 of the Election Code, 11.056(e) and 130.825 (e) of the Education Code, 285.131(g) of the Health and Safety Code, and 63.0945(f) of the Water Code related to election dates.

It is anticipated that any costs associated with implementation of the legislation could be absorbed within existing resources.

### **Local Government Impact**

Costs to counties would vary depending on the number residents currently residing overseas who wish to vote and the method of providing notice to be prescribed by the Secretary of State; however, costs to counties are not anticipated to be significant.

Texas Association of Counties reported that Montgomery County does not anticipate significant fiscal impact associated with the bill based on the current level of overseas ballot submissions.

Montgomery County anticipates overall savings if it were not required to conduct May elections on even numbered years.

Shelby County reported no significant fiscal impact associated with the bill.

**Source Agencies:** 307 Secretary of State

**LBB Staff:** JOB, KJG, BTA, KKR

**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE, 82ND LEGISLATIVE REGULAR SESSION**

**May 20, 2011**

**TO:** Honorable Robert Duncan, Chair, Senate Committee on State Affairs

**FROM:** John S O'Brien, Director, Legislative Budget Board

**IN RE: HB2173** by Torres (Relating to the adoption of certain voting procedures and to certain elections, including procedures necessary to implement the federal Military and Overseas Voter Empowerment Act, deadlines for declaration of candidacy and dates for certain elections, and to terms of certain elected officials.), **Committee Report 2nd House, Substituted**

<p><b>No significant fiscal implication to the State is anticipated.</b></p>
--

The bill would provide voting procedures to implement the federal Military and Overseas Voter Empowerment (MOVE) Act.

The bill would require for each Federal Postcard Application (FPCA) registrant accepted to vote, a notation be made beside the voter's name on the early voting poll list and early voting roster indicating that the voter is an FPCA registrant. The early voting clerk would be required to note on the early voting by mail roster each e-mail of a ballot.

The Secretary of State (SOS) would be designated to provide information regarding voter registration procedures and absentee ballot procedures, including procedures related to the federal write-in absentee ballot, to be used by persons eligible to vote under the federal Uniformed and Overseas Citizens Absentee Voting Act.

SOS in coordination with local election officials would be required to implement an electronic free-access system by which certain persons eligible for early voting by mail may determine that their application and ballot have been received.

The bill would allow certain voters to request from early voting clerks e-mail transmission of balloting materials and the clerk would be required to ensure that a voter's e-mail address is excluded from public disclosure.

The Secretary of State (SOS) would be required to prescribe procedures for the retransmission of balloting materials following an unsuccessful transmission of the materials to a voter. SOS would also be required to create a tracking system under which a Federal Postcard Application registrant may determine whether a voted ballot has been received by the early voting clerk. In addition, SOS would be required to prescribe certain procedures and would be allowed to adopt rules for the implementation of this legislation. SOS would also be allowed to provide an alternate secure method of electronic ballot transmission. In addition, the bill would change various election related dates.

The clerks would be required to include in a jacket envelope a copy of the voter's federal postcard application and the signature cover sheet if the ballot is voted.

The early voting board would be required to keep a record of the number of rejected ballots. The board would also be required to make a notation on the carrier envelope of any ballot that was rejected after the carrier envelope was opened and include the reason the envelope was opened and the ballot was rejected. If the ballot was transmitted by e-mail, the presiding judge would be required to provide the notice of rejected ballot to the e-mail address to which the ballot was sent.

The bill would repeal Sections 41.0052(a-1) of the Election Code, 11.056(e) and 130.825(e) of the Education Code, 285.131(g) of the Health and Safety Code, and 63.0945(f) of the Water Code related to election dates.

It is anticipated that any costs associated with implementation of the legislation could be absorbed within existing resources.

**Local Government Impact**

According to Texas Association of Counties, Montgomery County does not anticipate significant fiscal impact associated with the bill based on the current level of overseas ballot submissions. Montgomery County anticipates overall savings if they were not required to conduct May elections on even numbered years.

Shelby County reported no significant fiscal impact associated with the bill; however, they noted that complying with the bill may be costly for any counties that don't currently have internet access.

**Source Agencies:** 307 Secretary of State

**LBB Staff:** JOB, KJG, BTA, KKR

**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE, 82ND LEGISLATIVE REGULAR SESSION**

**May 17, 2011**

**TO:** Honorable Robert Duncan, Chair, Senate Committee on State Affairs

**FROM:** John S O'Brien, Director, Legislative Budget Board

**IN RE: HB2173** by Torres (Relating to a pilot program allowing certain military overseas voters to receive and cast a ballot electronically.), **As Engrossed**

**Estimated Two-year Net Impact to General Revenue Related Funds** for HB2173, As Engrossed: a negative impact of (\$212,000) through the biennium ending August 31, 2013.

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

**General Revenue-Related Funds, Five-Year Impact:**

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2012	(\$212,000)
2013	\$0
2014	\$0
2015	\$0
2016	\$0

**All Funds, Five-Year Impact:**

Fiscal Year	Probable Savings/(Cost) from <i>General Revenue Fund</i> 1
2012	(\$212,000)
2013	\$0
2014	\$0
2015	\$0
2016	\$0

**Fiscal Analysis**

The bill would require the Secretary of State (SOS), by July 1, 2012, to prescribe procedures for implementing a pilot program to allow the electronic transmission of balloting materials and voted ballots for certain military overseas voters for the 2012 general election for the state and county officers. The bill would allow a county to participate in the pilot program if SOS approves a participation request from the county early voting clerk. SOS would be required to prescribe the form and manner for the clerk to send balloting materials to an e-mail address for certain voters and would require the clerk to maintain a record of each ballot received. The procedures prescribed by SOS would be required to provide for the verification of the voter and security of transmission. The balloting materials would be required to be returned to SOS for verification and redistribution. SOS would be allowed to adopt rules to implement the pilot program and would be required to file a report

on the pilot program to the Legislature no later than February 15, 2013. This section would expire on February 16, 2013. The bill would take effect September 1, 2011.

### **Methodology**

The total fiscal impact of the bill is estimated to be \$212,000 out of the General Revenue Fund in fiscal year 2012 (see Technology section). It is anticipated that any costs associated with implementation of the legislation could be absorbed within existing resources.

### **Technology**

SOS assumes that a new application and interface would be needed to verify and redistribute balloting materials at a cost of \$212,000 out of the General Revenue Fund in fiscal year 2012 for programming contractors to design, develop, and test the application and interface.

### **Local Government Impact**

Since the early voting clerk of a county would choose whether or not to participate in the pilot program, it is assumed that a county would only participate if sufficient funds were available.

For counties choosing to participate, additional administrative duties would vary depending on the number of requests for balloting material under the provisions of the bill; however, it is anticipated that additional duties could be absorbed with existing resources.

**Source Agencies:** 307 Secretary of State

**LBB Staff:** JOB, KJG, BTA



**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE, 82ND LEGISLATIVE REGULAR SESSION**

**April 3, 2011**

**TO:** Honorable Larry Taylor, Chair, House Committee on Elections

**FROM:** John S O'Brien, Director, Legislative Budget Board

**IN RE: HB2173** by Torres (Relating to a pilot program allowing certain military and overseas voters to receive and cast a ballot electronically.), **As Introduced**

<p><b>No significant fiscal implication to the State is anticipated.</b></p>
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The bill would require the Secretary of State (SOS), by July 1, 2012, to prescribe procedures for implementing a pilot program to allow the electronic transmission of balloting materials and voted ballots for certain military and overseas voters for the 2012 general election for the state and county officers. The bill would allow a county to participate in the pilot program if SOS approves a participation request from the county early voting clerk. SOS would be required to prescribe the form and manner for the clerk to send balloting materials to an e-mail address for certain voters and would require the clerk to maintain a record of each ballot received. The procedures prescribed by SOS would be required to provide for the verification of the voter and security of transmission. SOS would be allowed to adopt rules to implement the pilot program and would be required to file a report on the pilot program to the Legislature no later than February 15, 2013. This section would expire on February 16, 2013. It is anticipated that any costs associated with implementation of the legislation could be absorbed within existing resources. The bill would take effect September 1, 2011.

**Local Government Impact**

Since the early voting clerk of a county would choose whether or not to participate in the pilot program, it is assumed that a county would only participate if sufficient funds were available.

For counties choosing to participate, additional administrative duties would vary depending on the number of requests for balloting material under the provisions of the bill; however, it is anticipated that additional duties could be absorbed with existing resources.

**Source Agencies:** 307 Secretary of State

**LBB Staff:** JOB, JT, BTA, KKR