

By: Rodriguez

S.B. No. 1722

A BILL TO BE ENTITLED

1 AN ACT
2 relating to reforming the electoral process; providing a criminal
3 penalty.

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

5 SECTION 1. Chapter 1, Election Code, is amended by adding
6 Section 1.021 to read as follows:

7 Sec. 1.021. BIPARTISAN ELECTION COMMISSION. (a) The
8 Bipartisan Election Commission is composed of eight members as
9 follows:

10 (1) two members from each political party whose
11 nominee for governor in the most recent gubernatorial general
12 election received 20 percent or more of the total number of votes
13 received by all candidates for governor in the election, appointed
14 by the senate; and

15 (2) two members from each political party whose
16 nominee for governor in the most recent gubernatorial general
17 election received 20 percent or more of the total number of votes
18 received by all candidates for governor in the election, appointed
19 by the house of representatives.

20 (b) A member of the commission serves at the will of the
21 appointing house of the legislature.

22 (c) The commission shall:

23 (1) study methods to reduce election fraud, increase
24 voter turnout, and improve election practices in this state; and

1 (2) monitor the implementation of the changes in law
2 made by Chapter 123 (S.B. 14), Acts of the 82nd Legislature,
3 Regular Session, 2011.

4 (d) The commission shall report its findings to the
5 committees of each house of the legislature with jurisdiction over
6 elections. The commission shall submit one report not later than
7 December 1, 2014, and a second report not later than December 1,
8 2016. This subsection expires September 1, 2017.

9 SECTION 2. Subchapter A, Chapter 12, Election Code, is
10 amended by adding Section 12.007 to read as follows:

11 Sec. 12.007. CERTAIN ELECTION OFFICERS ARE VOTER
12 REGISTRARS. An election officer serving a polling place for early
13 voting by personal appearance is a deputy voter registrar and has
14 the same authority as a regular deputy registrar.

15 SECTION 3. Section 15.005(b), Election Code, is amended to
16 read as follows:

17 (b) The notice included on the certificate under this
18 section must state: "All eligible voters shall be accepted for
19 voting if identification is provided that includes one form of
20 photo identification or two forms of nonphoto identification. If
21 an eligible voter cannot provide these documents, the voter shall
22 be allowed to vote if a signed affidavit subject to verification is
23 provided." [~~secretary of state shall prescribe the wording of the~~
24 ~~notice to be included on the certificate under this section.~~]

25 SECTION 4. Section 31.012, Election Code, is amended to
26 read as follows:

27 Sec. 31.012. VOTER IDENTIFICATION EDUCATION. (a) The

1 secretary of state, in cooperation with appropriate nonprofit
2 organizations as determined by the secretary of state and with each
3 party whose nominee for governor in the most recent gubernatorial
4 general election received 20 percent or more of the total number of
5 votes received by all candidates for governor in the election,
6 shall establish a statewide voter education project to [~~and the~~
7 ~~voter registrar of each county that maintains a website shall~~]
8 provide notice of the identification requirements for voting
9 prescribed by Chapter 63 and to increase awareness regarding the
10 methods of acquiring the required identification [~~on each entity's~~
11 ~~respective website in each language in which voter registration~~
12 ~~materials are available. The secretary of state shall prescribe~~
13 ~~the wording of the notice to be included on the websites)].~~

14 (b) A project established under this section must include:
15 (1) a community outreach program in which information
16 about the identification requirements is provided considering the
17 needs of individuals in each community; and
18 (2) a communications strategy for providing
19 information about the identification requirements through print,
20 radio, and television in each electronic media market beginning six
21 months in advance of the first election for which photo
22 identification is required [~~The secretary of state shall conduct a~~
23 ~~statewide effort to educate voters regarding the identification~~
24 ~~requirements for voting prescribed by Chapter 63)].~~

25 (c) The county clerk or county elections administrator
26 shall administer projects established under this section [~~of each~~
27 ~~county shall post in a prominent location at the clerk's office a~~

1 ~~physical copy of the notice prescribed under Subsection (a) in each~~
2 ~~language in which voter registration materials are available].~~

3 SECTION 5. Subchapter A, Chapter 31, Election Code, is
4 amended by adding Sections 31.013 and 31.014 to read as follows:

5 Sec. 31.013. ELECTION INTEGRITY TRAINING. The secretary of
6 state and the attorney general jointly shall annually conduct, in
7 at least four different geographic regions of the state, election
8 integrity training for election officers, law enforcement
9 personnel, and prosecutors in methods of detecting, investigating,
10 and prosecuting instances of voter fraud and voter suppression.

11 Sec. 31.014. PHOTO IDENTIFICATION ACCESS STUDY. (a) Not
12 later than January 1, 2015, the secretary of state shall conduct a
13 study on the availability of photo identification and provide
14 recommendations to the legislature concerning:

15 (1) the ability to merge the databases of different
16 state agencies and governmental entities to obtain photographs of
17 voters for use on the voter's voter registration certificate; and

18 (2) ways to make photo identification available at no
19 cost to as many voters as possible, including the use of a program
20 to obtain photographs of voters using neighborhood mobile units for
21 use on the voter's voter registration certificate.

22 (b) This section expires September 1, 2015.

23 SECTION 6. Chapter 61, Election Code, is amended by adding
24 Subchapter C to read as follows:

25 SUBCHAPTER C. DECEPTIVE ELECTION PRACTICES AND VOTER SUPPRESSION

26 Sec. 61.061. DECEPTIVE ELECTION PRACTICES AND VOTER
27 SUPPRESSION PROHIBITED. A person may not knowingly deceive another

1 person regarding:

2 (1) the time, place, or manner of conducting an
3 election in this state; or

4 (2) the qualifications for or restrictions governing
5 voter eligibility for an election in this state.

6 Sec. 61.062. CRIMINAL OFFENSE. (a) A person commits an
7 offense if the person violates Section 61.061 with the intent to
8 prevent another person from:

9 (1) voting in an election; or

10 (2) casting a ballot that may legally be counted.

11 (b) An offense under this section is a Class B misdemeanor.

12 Sec. 61.063. REPORT TO SECRETARY OF STATE; ACTION BY
13 SECRETARY. (a) A person may report a suspected violation of
14 Section 61.061 to the secretary of state through the voting rights
15 hotline or otherwise.

16 (b) Not later than 48 hours after receiving the report, the
17 secretary of state shall:

18 (1) refer the matter to the attorney general as
19 provided by Section 31.006 if the secretary determines that there
20 is reasonable cause to suspect that a criminal offense has been
21 committed; and

22 (2) take any action determined necessary to provide
23 correct information to the voters affected by the violation.

24 (c) The secretary of state shall adopt rules regarding the
25 method of taking corrective action under Subsection (b)(2).

26 Sec. 61.064. REPORT TO LEGISLATURE. (a) Not later than
27 February 1 of each year, the secretary of state shall submit a

1 report to the legislature regarding the reported violations of
2 Section 61.061 during the preceding calendar year.

3 (b) The report must include:

4 (1) the number of reports of violations received;

5 (2) the number of alleged violations referred to the
6 attorney general;

7 (3) a description of the corrective actions taken
8 under Section 61.063(b)(2);

9 (4) the geographic locations of and populations
10 affected by the alleged violations; and

11 (5) any other information considered appropriate by
12 the secretary of state.

13 (c) The secretary of state may withhold specific
14 information from a report under this section if the secretary
15 determines that the disclosure of that information would unduly
16 interfere with an ongoing investigation.

17 SECTION 7. Section 62.011(d), Election Code, is amended to
18 read as follows:

19 (d) The poster must also include the following information:

20 (1) the date of the election and the hours during which
21 the polling place is open;

22 (2) general information on voting rights under state
23 and federal laws, including information on the right of an
24 individual to cast a provisional ballot, the right to receive a
25 written and signed explanation if an individual is not accepted to
26 cast a regular ballot, and the individuals to contact if a person
27 believes these rights have been violated; and

1 (3) general information on state and federal laws that
2 prohibit acts of fraud or misrepresentation.

3 SECTION 8. Section 62.0115(b), Election Code, is amended to
4 read as follows:

5 (b) Except as revised by the secretary of state under
6 Subsection (d), the notice must state that a voter has the right to:

7 (1) vote a ballot and view written instructions on how
8 to cast a ballot;

9 (2) vote in secret and free from intimidation;

10 (3) receive up to two additional ballots if the voter
11 mismarks, damages, or otherwise spoils a ballot;

12 (4) request instructions on how to cast a ballot, but
13 not to receive suggestions on how to vote;

14 (5) bring an interpreter to translate the ballot and
15 any instructions from election officials;

16 (6) receive assistance in casting the ballot if the
17 voter:

18 (A) has a physical disability that renders the
19 voter unable to write or see; or

20 (B) cannot read the language in which the ballot
21 is written;

22 (7) cast a ballot on executing an affidavit as
23 provided by law, if the voter's eligibility to vote is questioned;

24 (8) report an existing or potential abuse of voting
25 rights to the secretary of state or the local election official;

26 (9) except as provided by Section 85.066(b), Election
27 Code, vote at any early voting location in the county in which the

1 voter resides in an election held at county expense, a primary
2 election, or a special election ordered by the governor; ~~and~~

3 (10) file an administrative complaint with the
4 secretary of state concerning a violation of federal or state
5 voting procedures; and

6 (11) receive a written and signed explanation if the
7 voter is not accepted to cast a regular ballot.

8 SECTION 9. Section 63.001, Election Code, is amended by
9 amending Subsections (b), (c), (d), (g), and (h) and adding
10 Subsection (i) to read as follows:

11 (b) On ~~[Except as provided by Subsection (h), on]~~ offering
12 to vote, a voter must present to an election officer at the polling
13 place:

14 (1) one form of photo identification listed in
15 ~~[described by]~~ Section 63.0101(a);

16 (2) two different forms of identification listed in
17 Section 63.0101(b); or

18 (3) the voter's voter registration certificate,
19 accompanied by the affidavit described by Subsection (h) [63.0101].

20 (c) On presentation of the documentation required by
21 ~~[under]~~ Subsection (b), an election officer shall determine whether
22 the voter's name on the registration certificate ~~[documentation]~~ is
23 on the list of registered voters for the precinct. ~~[If in making a~~
24 ~~determination under this subsection the election officer~~
25 ~~determines under standards adopted by the secretary of state that~~
26 ~~the voter's name on the documentation is substantially similar to~~
27 ~~but does not match exactly with the name on the list, the voter~~

1 ~~shall be accepted for voting under Subsection (d) if the voter~~
2 ~~submits an affidavit stating that the voter is the person on the~~
3 ~~list of registered voters.]~~

4 (d) If [~~as determined under Subsection (c),~~] the voter's
5 name is on the precinct list of registered voters and the voter
6 presents the required [~~voter's identity can be verified from the~~]
7 documentation [~~presented~~] under Subsection (b), the voter shall be
8 accepted for voting.

9 (g) If the requirements for identification prescribed by
10 Subsection (b) are not met, the voter may be accepted for
11 provisional voting only under Section 63.011. An election officer
12 shall inform [~~For~~] a voter who is not accepted for voting under this
13 section [~~, an election officer shall:~~

14 [~~(1) inform the voter~~] of the voter's right to cast a
15 provisional ballot under Section 63.011 [~~, and~~

16 [~~(2) provide the voter with written information, in a~~
17 ~~form prescribed by the secretary of state, that:~~

18 [~~(A) lists the requirements for identification,~~

19 [~~(B) states the procedure for presenting~~
20 ~~identification under Section 65.0541,~~

21 [~~(C) includes a map showing the location where~~
22 ~~identification must be presented, and~~

23 [~~(D) includes notice that if all procedures are~~
24 ~~followed and the voter is found to be eligible to vote and is voting~~
25 ~~in the correct precinct, the voter's provisional ballot will be~~
26 ~~accepted].~~

27 (h) If the requirement [~~The requirements~~] for

1 identification prescribed by Subsection (b)(1) or (2) is not met,
2 an election officer shall notify the voter that the voter may be
3 accepted for voting if the voter executes an affidavit under
4 penalty of perjury stating that the voter is the person named on
5 ~~[(b) do not apply to a voter who is disabled and presents]~~ the
6 ~~[voter's]~~ voter registration certificate. The affidavit must
7 include the voter's name, address, year of birth, and signature
8 ~~[containing the indication described by Section 15.001(c) on~~
9 ~~offering to vote]~~.

10 (i) An election officer who determines not to accept a voter
11 shall provide the voter with a statement signed by the election
12 officer listing all reasons why that voter was not accepted and the
13 circumstances under which a voter may vote a provisional ballot.
14 The statement shall be on a form prescribed by the secretary of
15 state. The form shall include a list of common reasons for not
16 accepting a voter and a space or box next to each reason to indicate
17 whether the reason applies to the voter, and a space or box to
18 indicate whether the voter was offered the opportunity to cast a
19 provisional ballot. The secretary of state, to the extent
20 practicable, shall prescribe the use of existing forms to provide
21 the statement required by this subsection to minimize the number of
22 forms needed at a polling place.

23 SECTION 10. Section 63.006(a), Election Code, is amended to
24 read as follows:

25 (a) A voter who, when offering to vote, presents the
26 documentation required under Section 63.001(b)(1) or (2)
27 ~~[63.001(b)]~~ but whose name is not on the precinct list of registered

1 voters shall be accepted for voting if the voter also presents a
2 voter registration certificate indicating that the voter is
3 currently registered:

4 (1) in the precinct in which the voter is offering to
5 vote if the name listed on the documentation matches the name listed
6 on the voter registration certificate; or

7 (2) in a different precinct in the same county as the
8 precinct in which the voter is offering to vote and the voter
9 executes an affidavit stating that the voter:

10 (A) is a resident of the precinct in which the
11 voter is offering to vote or is otherwise entitled by law to vote in
12 that precinct;

13 (B) was a resident of the precinct in which the
14 voter is offering to vote at the time the information on the voter's
15 residence address was last provided to the voter registrar;

16 (C) did not deliberately provide false
17 information to secure registration in a precinct in which the voter
18 does not reside; and

19 (D) is voting only once in the election.

20 SECTION 11. Section 63.0101, Election Code, is amended to
21 read as follows:

22 Sec. 63.0101. DOCUMENTATION OF PROOF OF
23 IDENTIFICATION. (a) The following documentation is an acceptable
24 form of photo identification under this chapter:

25 (1) a driver's license [~~election identification~~
26 ~~certificate~~] or personal identification card issued to the person
27 by the Department of Public Safety that has not expired or that

1 expired no earlier than two years [~~60 days~~] before the date of
2 presentation;

3 (2) a United States military identification card that
4 contains the person's photograph [~~that has not expired or that~~
5 ~~expired no earlier than 60 days before the date of presentation~~];

6 (3) a United States citizenship or naturalization
7 certificate issued to the person that contains the person's
8 photograph;

9 (4) a United States passport issued to the person
10 [~~that has not expired or that expired no earlier than 60 days before~~
11 ~~the date of presentation~~]; [~~or~~]

12 (5) a license to carry a concealed handgun issued to
13 the person by the Department of Public Safety; or

14 (6) a valid identification card that contains the
15 person's photograph and is issued by:

16 (A) an agency or institution of the federal
17 government; or

18 (B) an agency, institution, or political
19 subdivision of this state.

20 (b) The following documentation is acceptable as proof of
21 identification under this chapter:

22 (1) the person's voter registration certificate;

23 (2) a copy of a current utility bill, bank statement,
24 government check, paycheck, or other government document that shows
25 the name and address of the person;

26 (3) official mail addressed to the person by name from
27 a governmental entity;

1 (4) a certified copy of a birth certificate or other
2 document confirming birth that is admissible in a court of law and
3 establishes the person's identity;

4 (5) United States citizenship papers issued to the
5 person;

6 (6) an original or certified copy of the person's
7 marriage license or divorce decree;

8 (7) court records of the person's adoption, name
9 change, or sex change;

10 (8) an identification card issued to the person by a
11 governmental entity of this state or the United States for the
12 purpose of obtaining public benefits, including veterans benefits,
13 Medicaid, or Medicare;

14 (9) a temporary driving permit issued to the person by
15 the Department of Public Safety;

16 (10) a pilot's license issued to the person by the
17 Federal Aviation Administration or another authorized agency of the
18 United States;

19 (11) a library card that contains the person's name
20 issued to the person by a public library located in this state;

21 (12) a hunting or fishing license issued to the person
22 by the Parks and Wildlife Department; or

23 (13) an identification card issued to the person by a
24 public or private institution of higher education located in this
25 state [~~that has not expired or that expired no earlier than 60 days~~
26 ~~before the date of presentation~~].

27 SECTION 12. Section 64.012, Election Code, is amended by

1 adding Subsection (c) to read as follows:

2 (c) The early voting ballot board may examine the signature
3 and other information provided with an affidavit executed under
4 Section 63.001(h) to determine if there is a reason to suspect voter
5 impersonation for the purpose of prosecuting an offense under this
6 section. The early voting ballot board may notify the appropriate
7 county or district attorney of a determination of suspicion under
8 this subsection.

9 SECTION 13. Section 65.051(a), Election Code, is amended to
10 read as follows:

11 (a) The early voting ballot board shall verify and count
12 provisional ballots as provided by this subchapter not later than
13 the 10th [~~seventh~~] day after the date of an election.

14 SECTION 14. Section 65.054, Election Code, is amended by
15 amending Subsection (b) and adding Subsection (b-1) to read as
16 follows:

17 (b) Except as provided by Subsection (b-1), a [A]
18 provisional ballot may [~~shall~~] be accepted if the board determines
19 that, [+

20 [~~(1)~~] from the information in the affidavit or
21 contained in public records, the person is eligible to vote in the
22 election and has not previously voted in that election[+

23 [~~(2) the person:~~

24 [~~(A) meets the identification requirements of~~
25 ~~Section 63.001(b) at the time the ballot was cast or in the period~~
26 ~~prescribed under Section 65.0541,~~

27 [~~(B) notwithstanding Chapter 110, Civil Practice~~

1 ~~and Remedies Code, executes an affidavit under penalty of perjury~~
2 ~~that states the voter has a religious objection to being~~
3 ~~photographed and the voter has consistently refused to be~~
4 ~~photographed for any governmental purpose from the time the voter~~
5 ~~has held this belief; or~~

6 ~~[(C) executes an affidavit under penalty of~~
7 ~~perjury that states the voter does not have any identification~~
8 ~~meeting the requirements of Section 63.001(b) as a result of a~~
9 ~~natural disaster that was declared by the president of the United~~
10 ~~States or the governor, occurred not earlier than 45 days before the~~
11 ~~date the ballot was cast, and caused the destruction of or inability~~
12 ~~to access the voter's identification; and~~

13 ~~[(3) the voter has not been challenged and voted a~~
14 ~~provisional ballot solely because the voter did not meet the~~
15 ~~requirements for identification prescribed by Section 63.001(b)].~~

16 (b-1) A provisional ballot cast under Section 85.0312 shall
17 be accepted if the voter registrar determines the applicant is
18 eligible for registration under Section 85.0312(d).

19 SECTION 15. Section 67.003, Election Code, is amended to
20 read as follows:

21 Sec. 67.003. TIME FOR LOCAL CANVASS. (a) Except as
22 provided by Subsection (b), each local canvassing authority shall
23 convene to conduct the local canvass at the time set by the
24 canvassing authority's presiding officer not earlier than the 11th
25 ~~[eighth]~~ day or later than the 14th ~~[11th]~~ day after election day.

26 (b) For an election held on the uniform election date in
27 May, the local canvass must occur not later than the 14th ~~[11th]~~

1 day after election day and not earlier than the later of:

2 (1) the third day after election day;

3 (2) the date on which the early voting ballot board has
4 verified and counted all provisional ballots, if a provisional
5 ballot has been cast in the election; or

6 (3) the date on which all timely received ballots cast
7 from addresses outside of the United States are counted, if a ballot
8 to be voted by mail in the election was provided to a person outside
9 of the United States.

10 SECTION 16. Subchapter B, Chapter 85, Election Code, is
11 amended by adding Section 85.0312 to read as follows:

12 Sec. 85.0312. REGISTRATION AT POLLING PLACE DURING EARLY
13 VOTING. (a) A person who would be eligible to vote in an election
14 under Section 11.001, but for the requirement to be a registered
15 voter, shall be accepted during early voting by personal appearance
16 for voting the ballot for the precinct of the person's residence as
17 shown by the identification presented if, on the day the person
18 offers to vote, the person:

19 (1) submits a voter registration application that
20 complies with Section 13.002 to an election officer at the polling
21 place; and

22 (2) presents as proof of residence a photo
23 identification under Section 63.0101(a) that states the person's
24 current address on the day the person seeks to vote.

25 (b) The election officer shall return the original proof of
26 residence to the voter.

27 (c) A person voting under this section shall vote a

1 provisional ballot in the manner provided by Section 63.011 except
2 that the person is not required to submit the affidavit under
3 Section 63.011(a).

4 (d) For each registration corresponding to a ballot cast
5 under this section, the voter registrar shall review the
6 application and determine whether the applicant is eligible for
7 registration as provided by Subchapter C, Chapter 13. The
8 registrar shall inform the early voting ballot board of a
9 determination made under this subsection. A registration approved
10 under this subsection takes effect on the date the vote was cast.

11 (e) The secretary of state may by rule prescribe procedures
12 to implement this section.

13 (f) An authority holding an election that does not include a
14 statewide or federal election is not required to comply with this
15 section.

16 SECTION 17. Subchapter A, Chapter 273, Election Code, is
17 amended by adding Section 273.005 to read as follows:

18 Sec. 273.005. POST-ELECTION INTEGRITY AUDIT. (a)
19 Following the general election for state and county officers, the
20 county clerk of each county shall conduct a post-election integrity
21 audit to examine and investigate any evidence of voter fraud or
22 voter suppression.

23 (b) The county clerk shall:

24 (1) not later than the 90th day after the date of the
25 general election for state and county officers, file a report with
26 the secretary of state and the commissioners court of the county
27 providing details of the evidence collected in the audit; and

1 (2) refer any evidence of voter fraud or voter
2 suppression collected under the audit to the district attorney or
3 criminal district attorney with jurisdiction in the county.

4 SECTION 18. Section 521.422, Transportation Code, is
5 amended by amending Subsection (a) and adding Subsection (d) to
6 read as follows:

7 (a) Except as provided by Subsection (d), the [The] fee for
8 a personal identification certificate is:

9 (1) \$15 for a person under 60 years of age;

10 (2) \$5 for a person 60 years of age or older; and

11 (3) \$20 for a person subject to the registration
12 requirements under Chapter 62, Code of Criminal Procedure.

13 (d) The department may not collect a fee for a personal
14 identification certificate issued to a person who states that the
15 person is obtaining the personal identification certificate for the
16 purpose of voting, and:

17 (1) who is a registered voter in this state and
18 presents a valid voter registration certificate; or

19 (2) who is eligible for registration under Section
20 13.001, Election Code, and submits a registration application to
21 the department.

22 SECTION 19. This Act takes effect September 1, 2013.