

By: Faircloth

H.B. No. 1735

A BILL TO BE ENTITLED

AN ACT

relating to certain election officers.

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

SECTION 1. Chapter 1, Election Code, is amended by adding Section 1.016 to read as follows:

Sec. 1.016. OATHS BY ELECTION OFFICERS. (a) An oath or statement required by the Texas Constitution or this code prior to an election officer entering service may be administered and a certificate of the fact given by:

(1) the secretary of state, a member of the secretary of state's staff, or a state inspector appointed by the secretary;

(2) a county or municipal clerk or the clerk's deputies;

(3) a county tax assessor-collector or the county tax assessor-collector's deputies;

(4) a city secretary;

(5) a member of a county election commission or county election board;

(6) a county elections administrator or employee of a county elections administrator;

(7) the secretary of the governing body of a political subdivision other than a county or city or the authority performing the duties of a secretary under this code;

(8) a presiding election judge or alternate presiding

1 judge who has already entered service;

2 (9) an early voting clerk or a deputy early voting  
3 clerk who has already entered service;

4 (10) a member of an early voting ballot board or  
5 signature verification committee who has already entered service;  
6 or

7 (11) a presiding judge, manager, or tabulation  
8 supervisor of a central counting station who has already entered  
9 service.

10 (b) An oath, statement, or certificate described under  
11 Subsection (a) is valid for the duration of the election officer's  
12 term of office and shall be filed with election records for the  
13 election in which the election officer is serving.

14 (c) The secretary of state may prescribe a form of oath,  
15 statement, or certificate that incorporates any oaths or statements  
16 required by the Texas Constitution or this code for an election  
17 officer into a single oath or statement.

18 SECTION 2. Section 32.002, Election Code, is amended by  
19 adding Subsection (c-1) to read as follows:

20 (c-1) For purposes of this subsection, the county chair  
21 shall provide a list of names of persons eligible for appointment as  
22 election judges. Judges of countywide polling places established  
23 under Section 43.007 must be appointed from the list of names of  
24 persons submitted by the county chair in compliance with Subsection  
25 (c) except that in appointing a person from the list the  
26 commissioners court shall apportion the number of judges in direct  
27 proportion to the percentage of precincts located in each county

1 commissioners precinct won by each party in the last gubernatorial  
2 election, the commissioners court is not required to make the  
3 appointments based on specific polling locations or precincts, a  
4 presiding judge or alternate presiding judge is not required to  
5 serve in a polling place located in the precinct in which the judge  
6 resides, and more than one presiding judge or alternate presiding  
7 judge may be selected from the same precinct to serve in polling  
8 places not located in the precinct in which the judges reside. The  
9 county chairs may submit, and the commissioners court may  
10 preapprove, the appointment of more presiding judges or alternate  
11 presiding judges than necessary to fill available positions. The  
12 county clerk may select an individual whose appointment was  
13 preapproved by the commissioners court to fill a vacancy in a  
14 position that was held by an individual from the same political  
15 party. Other than a judge's party affiliation, nothing in this  
16 subsection precludes a county clerk from placing an election  
17 officer at a countywide polling place based on the need for services  
18 at that location.

19 SECTION 3. Section 32.002, Election Code, is amended by  
20 adding Subsection (g) to read as follows:

21 (g) Following an oral warning to the election judge and with  
22 the concurrence of the county chair of the same political party with  
23 which the judge is affiliated or aligned, the county clerk may  
24 remove, replace, or reassign an election judge who causes a  
25 disruption in a polling location or wilfully disobeys the  
26 provisions of this code. A vacancy created under this subsection  
27 shall be filled in the same manner as an emergency appointment under

1 Section 32.007.

2 SECTION 4. Section 32.006(a), Election Code, is amended to  
3 read as follows:

4 (a) The county chair of a political party holding a primary  
5 election shall appoint for each primary [~~, with the approval of the~~  
6 ~~county executive committee,~~] the judges for each precinct in which  
7 the election will be held in the county and fill any vacancy that  
8 occurs in the position of presiding judge or alternate presiding  
9 judge.

10 SECTION 5. Section 32.009(d), Election Code, is amended to  
11 read as follows:

12 (d) A notice to a presiding judge must state the name, ~~[and]~~  
13 address, and any available telephone number and e-mail address of  
14 the alternate, and a notice to an alternate must state the name,  
15 ~~[and]~~ address, and any available telephone number and e-mail  
16 address of the presiding judge.

17 SECTION 6. Subchapter A, Chapter 32, Election Code, is  
18 amended by adding Section 32.012 to read as follows:

19 Sec. 32.012. PROVISION OF INFORMATION RELATING TO ELECTION  
20 JUDGES APPOINTED BY COMMISSIONERS COURT. (a) After the  
21 commissioners court appoints a presiding election judge and an  
22 alternate presiding judge, the county clerk shall provide to the  
23 county chair of each political party a list of the individuals  
24 appointed by the commissioners court.

25 (b) The appointment list must be provided in writing.

26 SECTION 7. Section 32.034, Election Code, is amended by  
27 adding Subsection (f) to read as follows:

1       (f) Following an oral warning to the election clerk and with  
2 the concurrence of the county chair of the same political party with  
3 which the election clerk is affiliated or aligned, the county clerk  
4 may remove, replace, or reassign an election clerk who causes a  
5 disruption in a polling location or wilfully disobeys the  
6 provisions of this code. A vacancy created under this subsection  
7 shall be filled by the presiding judge, who shall appoint a  
8 replacement election clerk who is affiliated or aligned with the  
9 same political party as the original clerk, if possible.

10       SECTION 8. Section 32.114(e), Election Code, is amended to  
11 read as follows:

12       (e) An election judge, early voting clerk, or deputy early  
13 voting clerk in charge of an early voting polling place is entitled  
14 to compensation for attending the training program at an hourly  
15 rate fixed by the appropriate authority in an amount that is equal  
16 to or greater than the federal minimum wage [~~not to exceed \$7~~].

17       SECTION 9. Section 43.007, Election Code, is amended by  
18 amending Subsection (a) and adding Subsections (m) and (n) to read  
19 as follows:

20       (a) The secretary of state shall implement a program to  
21 allow each commissioners court participating in the program to  
22 eliminate county election precinct polling places and establish  
23 countywide polling places for:

24               (1) each general election for state and county  
25 officers;

26               (2) each election held on the uniform election date in  
27 May and any resulting runoff;

1           (3) each election on a proposed constitutional  
2 amendment;

3           (4) each primary election and runoff primary election  
4 if:

5                   (A) the county chair or county executive  
6 committee of each political party participating in a joint primary  
7 election under Section 172.126 agrees to the use of countywide  
8 polling places; or

9                   (B) the county chair or county executive  
10 committee of each political party required to nominate candidates  
11 by primary election agrees to use the same countywide polling  
12 places; and

13           (5) each election of a political subdivision located  
14 in the county that is held jointly with an election described by  
15 Subdivision (1), (2), (3), or (4).

16           (m) In adopting a methodology under Subsection (f), the  
17 county must ensure that:

18                   (1) each county commissioners precinct contains at  
19 least one countywide polling place; and

20                   (2) the total number of permanent branch and temporary  
21 branch polling places open for voting in a county commissioners  
22 precinct does not exceed more than twice the number of permanent  
23 branch and temporary branch polling places in another county  
24 commissioners precinct.

25           (n) To the greatest extent possible, countywide polling  
26 places shall be located in a precinct where the political party that  
27 received the greatest number of votes in the last gubernatorial

1 election is the same political party with which the presiding judge  
2 is affiliated.

3 SECTION 10. Section 85.009(b), Election Code, is amended to  
4 read as follows:

5 (b) Before July of each year, the county chair of each  
6 political party holding a primary election in the county shall  
7 submit in writing to the county clerk a list of names of persons in  
8 order of preference for each early voting polling place who are  
9 eligible for selection as an election officer. The county chair  
10 may supplement the list of names of persons until the 30th day  
11 before early voting begins in case an appointed election officer  
12 becomes unable to serve. The county clerk shall appoint the first  
13 person meeting the applicable eligibility requirements from the  
14 list submitted in compliance with this subsection by the party with  
15 the highest number of votes in the county as the presiding judge  
16 [~~election officer~~] of that polling place and the first person  
17 meeting the applicable eligibility requirements from the list  
18 submitted in compliance with this subsection by the party with the  
19 second highest number of votes in the county as the alternate  
20 presiding judge [~~election officer~~] of that polling place. The  
21 county clerk shall appoint additional election officers for each  
22 polling place in the manner described by Subsection (a). The  
23 county clerk may reject the list if the persons whose names are  
24 submitted on the list are determined not to meet the applicable  
25 eligibility requirements.

26 SECTION 11. Subchapter A, Chapter 85, Election Code, is  
27 amended by adding Section 85.0091 to read as follows:

1       Sec. 85.0091. EARLY VOTING ELECTION OFFICERS FOR PRIMARY  
2 ELECTIONS. (a) The early voting clerk shall select election  
3 officers for a primary election for the main early voting polling  
4 place and any branch polling place in a manner consistent with  
5 Section 85.009, except that the early voting clerk shall prescribe  
6 the deadline by which county chairs must submit names of persons  
7 eligible to serve as election officers during early voting.

8       (b) This section does not apply to a joint primary governed  
9 by Section 172.126.

10       SECTION 12. Subchapter A, Chapter 87, Election Code, is  
11 amended by adding Section 87.006 to read as follows:

12       Sec. 87.006. EARLY VOTING BALLOT BOARD MEMBERS: OATH AND  
13 IDENTIFICATION. (a) A member of the early voting ballot board  
14 shall repeat the following oath aloud:

15       "I swear (or affirm) that I will objectively work to be sure  
16 every eligible voter's vote is accepted and counted, and that only  
17 the ballots of those voters who violated the Texas Election Code  
18 will be rejected. I will make every effort to correctly reflect the  
19 voter's intent when it can be clearly determined. I will not work  
20 alone when ballots are present and will work only in the presence of  
21 a member of a political party different from my own. I will  
22 faithfully perform my duty as an officer of the election and guard  
23 the purity of the election."

24       (b) A member of the early voting ballot board who arrives  
25 after the oath is made shall repeat the oath aloud before performing  
26 any duties as a member.

27       (c) Following administration of the oath, each member of the



1 early voting ballot board shall be issued a form of identification,  
2 prescribed by the secretary of state, to be displayed by the member  
3 during the member's hours of service on the board.

4 SECTION 13. Subchapter G, Chapter 87, Election Code, is  
5 amended by adding Section 87.127 to read as follows:

6 Sec. 87.127. RESOLUTION OF INCORRECT DETERMINATION BY EARLY  
7 VOTING BALLOT BOARD. (a) If a county election officer, as defined  
8 by Section 31.091, determines a ballot was incorrectly rejected or  
9 accepted by the early voting ballot board before the time set for  
10 convening the canvassing authority, the county election officer may  
11 petition a district court for injunctive or other relief as the  
12 court determines appropriate.

13 (b) In an election ordered by the governor or by a county  
14 judge, the county election officer must confer with and establish  
15 the agreement of the county chair of each political party before  
16 petitioning the district court.

17 SECTION 14. Subchapter A, Chapter 127, Election Code, is  
18 amended by adding Section 127.0015 to read as follows:

19 Sec. 127.0015. CENTRAL COUNTING STATION OFFICERS: OATH AND  
20 IDENTIFICATION. (a) Election officers appointed under this  
21 subchapter shall repeat the following oath aloud:

22 "I swear (or affirm) that I will objectively work to be sure  
23 every eligible voter's vote is accepted and counted, and that only  
24 the ballots of those voters who violated the Texas Election Code  
25 will be rejected. I will make every effort to correctly reflect the  
26 voter's intent when it can be clearly determined. I will not work  
27 alone when ballots are present and will work only in the presence of

1 a member of a political party different from my own. I will  
2 faithfully perform my duty as an officer of the election and guard  
3 the purity of the election."

4 (b) An officer who arrives after the oath is made shall  
5 repeat the oath aloud before performing any duties as an election  
6 officer.

7 (c) Following administration of the oath, each election  
8 officer shall be issued a form of identification, prescribed by the  
9 secretary of state, to be displayed by the officer during the  
10 officer's hours of service at the central counting station.

11 SECTION 15. Section 127.004(b), Election Code, is amended  
12 to read as follows:

13 (b) To be eligible for appointment, a person must:  
14 (1) have the competence, training, and experience  
15 required for the proper performance of the work assigned; and  
16 (2) in a county with a population of less than 60,000,  
17 be a registered voter of the political subdivision served by the  
18 authority establishing the counting station or an employee of the  
19 political subdivision that adopts or owns the voting system.

20 SECTION 16. Section 127.007, Election Code, is amended by  
21 adding Subsection (c) to read as follows:

22 (c) The plan required under this section must be available  
23 to the public on request not later than 5 p.m. on the fifth day  
24 before the date of the election.

25 SECTION 17. Sections 32.006(b) and 32.010, Election Code,  
26 are repealed.

27 SECTION 18. This Act takes effect September 1, 2017.