

By: Laubenberg, Israel

H.B. No. 3840

Substitute the following for H.B. No. 3840:

By: Laubenberg

C.S.H.B. No. 3840

A BILL TO BE ENTITLED

AN ACT

relating to the conduct of primary elections; increasing a criminal penalty.

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

SECTION 1. Sections 31.092(b), (d), and (e), Election Code, are transferred to Section 31.093, Election Code, redesignated as Sections 31.093(c), (d), and (e), Election Code, respectively, and amended to read as follows:

(c) ~~[(b)]~~ On request of the county chair of a political party holding a primary election in the county, the [The] county election officer shall [may] contract with the county executive committee of the [a political] party [holding a primary election in the county] to perform election services, as provided by this subchapter, in the party's general primary election and ~~[or]~~ runoff primary election in accordance with a cost schedule agreed on by the contracting parties[, or both].

(d) In a contract required ~~[authorized]~~ by Subsection (c) ~~[(b)]~~, the county election officer may not prevent the county chair or the chair's designee from supervising the conduct of the primary election, including the tabulation of results, as required by Chapter 172.

(e) A ~~[If a]~~ county election officer ~~[enters into a contract with a county executive committee under Subsection (b) to perform election services, the officer]~~ must offer to contract on the same

1 terms with the county executive committee of each political party
2 holding a primary election in the county.

3 SECTION 2. Section 31.093(a), Election Code, is amended to
4 read as follows:

5 (a) If requested to do so by a political subdivision [~~or~~
6 ~~political party~~], the county elections administrator shall enter
7 into a contract to furnish the election services requested, in
8 accordance with a cost schedule agreed on by the contracting
9 parties.

10 SECTION 3. Section 61.003(b)(1), Election Code, is amended
11 to read as follows:

12 (1) "Electioneering" includes the posting, use, or
13 distribution of political signs or literature. The term does not
14 include the distribution of a notice of a party convention
15 authorized under Section 172.1114.

16 SECTION 4. Section 127.096, Election Code, is amended by
17 adding Subsection (a-1) to read as follows:

18 (a-1) If the test is being conducted for a primary election,
19 the custodian of the automatic tabulating equipment shall notify
20 the county chair of the test at least 48 hours before the date of the
21 test. The county chair shall confirm receipt of the notice.

22 SECTION 5. Section 129.023, Election Code, is amended by
23 adding Subsection (b-1) to read as follows:

24 (b-1) If the test is being conducted for a primary election,
25 the general custodian of election records shall notify the county
26 chair of the test at least 48 hours before the date of the test. The
27 county chair shall confirm receipt of the notice.

1 SECTION 6. Section 162.004(c), Election Code, is amended to
2 read as follows:

3 (c) If a voter is accepted to vote without presenting a
4 registration certificate, the presiding judge shall issue the voter
5 an affiliation certificate. The certificate is not required to be
6 issued to a voter in a runoff primary unless the voter requests it.
7 The affiliation certificate may be combined with the notice
8 provided under Section 172.1114. If the combined form is used, an
9 election officer is not required to comply with Subsection (b).

10 SECTION 7. Section 162.014(b), Election Code, is amended to
11 read as follows:

12 (b) An offense under this section is a felony of the second
13 degree unless the person is convicted of an attempt. In that case,
14 the offense is a state jail felony [~~Class C misdemeanor~~].

15 SECTION 8. Section 172.082, Election Code, is amended by
16 amending Subsections (b), (c), and (e) and adding Subsection (f) to
17 read as follows:

18 (b) The county chair [~~executive committee~~] shall conduct
19 the drawing unless the county executive committee [~~it~~] provides by
20 resolution that the drawing be conducted by the primary committee.

21 (c) The drawing shall be conducted [~~at the county seat~~] not
22 later than the 10th day after the date of the regular filing
23 deadline for the general primary election.

24 (e) The county chair shall post notice of the date, hour,
25 and place of the drawing for at least 24 consecutive hours
26 immediately before the drawing begins. The notice shall be posted
27 on the party's Internet website, if the party maintains a website.

1 If the party does not maintain a website, the notice shall be posted
2 on the bulletin board used for posting notice of meetings of the
3 commissioners court. [~~If the party maintains an Internet website,~~
4 ~~the party shall post the notice on the party's website.~~] All
5 candidates who provide an e-mail address on their filing form shall
6 be notified electronically.

7 (f) The state chair shall conduct the drawing if the county
8 chair:

9 (1) requests that the state chair conduct the drawing;

10 or

11 (2) fails to conduct the drawing by the deadline set in
12 this section.

13 SECTION 9. Section 172.083, Election Code, is amended to
14 read as follows:

15 Sec. 172.083. REVIEW AND APPROVAL OF BALLOT BY PRIMARY
16 COMMITTEE. If a primary committee was established, before [~~Before~~]
17 having the official ballots for a general primary election printed,
18 the county chair shall submit the format for the official ballot to
19 the primary committee for its review and approval.

20 SECTION 10. Section 172.084(a), Election Code, is amended
21 to read as follows:

22 (a) The [~~Except as provided by this section, the~~] order of
23 the candidates' names on the runoff primary election ballot for
24 each county shall be [~~determined by a drawing conducted~~]
25 order as [~~manner as the regular drawing for position~~] on the general
26 primary election ballot.

27 SECTION 11. Section 172.1111, Election Code, is amended to

1 read as follows:

2 Sec. 172.1111. POSTING NOTICE OF CONVENTIONS [~~PRECINCT~~
3 ~~CONVENTION~~] REQUIRED. (a) Before the opening of the polls, the
4 presiding judge shall post at each outside door through which a
5 voter may enter the building in which the polling place is located a
6 written notice in bold print of the date, hour, and place for each
7 ~~[convening the]~~ precinct, county, senatorial, or state convention
8 that a voter in the precinct may be eligible to attend during the
9 election year.

10 (b) Notice posted under this section may include:

11 (1) the website of the county party and state party;
12 and

13 (2) any other information deemed necessary by the
14 state executive committee.

15 (b-1) The state chair shall develop a form for the notice
16 that may be used statewide. The judge is not required to use an
17 officially prescribed form for the notice, but must include any
18 information required by this section.

19 (b-2) A state chair, county chair, or precinct chair shall
20 provide the presiding judge with the necessary information
21 respecting the chair's associated convention.

22 (c) The notice must remain posted continuously through
23 election day.

24 SECTION 12. Section [172.1112](#)(a), Election Code, is amended
25 to read as follows:

26 (a) The county clerk [~~chair~~] shall post a notice of the
27 election and a notice of consolidated precincts, if applicable, in

1 the manner prescribed by Section 4.003(b) for general and special
2 elections. The notice of the election shall be posted on the
3 party's Internet website, if the party maintains a website. If the
4 party does not maintain a website, the notice shall be posted on the
5 bulletin board used for posting notice of meetings of the
6 commissioners court.

7 SECTION 13. Subchapter E, Chapter 172, Election Code, is
8 amended by adding Section 172.1114 to read as follows:

9 Sec. 172.1114. DISTRIBUTION OF NOTICE OF CONVENTIONS. (a)
10 A political party may prepare a notice not larger than letter-sized
11 for distribution to each voter participating in the party's primary
12 election at the time the voter is accepted for voting.

13 (b) The notice may include:

14 (1) information describing the party's convention
15 process;

16 (2) information detailing the time and place of the
17 party's first level convention process;

18 (3) contact information for the county and state
19 political parties; and

20 (4) website links for information and registration for
21 party conventions.

22 (c) The state chair of a political party shall prescribe a
23 form for a notice that may be used in any county. A county chair of
24 a political party may prescribe a specific notice for the county
25 chair's county. The same notice must be used in all precincts
26 within a county.

27 (d) A notice must be approved by the secretary of state. If

1 a county chair of a political party uses the form of notice
2 prescribed by the state chair, only the convention location and
3 time may be added without the secretary of state's approval.

4 (e) A county chair of a political party shall supply a
5 notice prepared according to this section to the authority
6 conducting the election not later than the 30th day before the date
7 early voting by personal appearance begins.

8 (f) The secretary of state shall prescribe procedures and
9 adopt rules as necessary to implement this section.

10 SECTION 14. Section 172.112, Election Code, is amended to
11 read as follows:

12 Sec. 172.112. WRITE-IN VOTING. Write-in voting in a
13 primary election is not permitted [~~except in the general primary~~
14 ~~election for the offices of county chair and precinct chair~~].

15 SECTION 15. Sections 172.113(a), (d), and (e), Election
16 Code, are amended to read as follows:

17 (a) The authority establishing a central counting station
18 [~~county chair~~] shall prepare the unofficial tabulation of precinct
19 results.

20 (d) The authority [~~county chair~~] shall make [~~the~~] periodic
21 announcements of the current state of the tabulation, including by
22 posting the announcements on the Internet website of the county, if
23 the county maintains a website.

24 (e) On completing the tabulation, the authority [~~county~~
25 ~~chair~~] shall deliver it to the general custodian or may post the
26 tabulation on the county's website or the secretary of state's
27 website.

1 SECTION 16. Section 172.114, Election Code, is amended to
2 read as follows:

3 Sec. 172.114. DISPOSITION OF POLL LIST. The general
4 custodian of election records shall preserve the poll lists
5 maintained for a primary election for 22 months [~~until the end of~~
6 ~~the voting year in which the primary election is held~~].

7 SECTION 17. Section 172.1141, Election Code, is amended to
8 read as follows:

9 Sec. 172.1141. LIST OF REGISTERED VOTERS FOR CONVENTION.

10 (a) At the same time the acceptance of each voter for voting in the
11 general primary election is indicated on the precinct list of
12 registered voters furnished for use in the election, the acceptance
13 of the voter shall also be indicated on the list furnished for use
14 in the party's conventions.

15 (b) If a county records the acceptance of a voter
16 electronically, the county chair may request an electronic document
17 listing the persons who voted in the party primary.

18 SECTION 18. Section 172.115(a), Election Code, is amended
19 to read as follows:

20 (a) Subject to Subsection (b), the voter registrar shall
21 preserve each precinct list of registered voters that is used for a
22 primary election for 22 months [~~until the end of the voting year in~~
23 ~~which the primary election is held~~].

24 SECTION 19. Section 172.116, Election Code, is amended by
25 adding Subsections (c) and (d) to read as follows:

26 (c) The county clerk shall prepare and submit to the
27 secretary of state a report of the results of the canvass, which

1 must include:

2 (1) the total number of votes cast in each precinct for
3 each candidate or measure; and

4 (2) the number of counted and uncounted provisional
5 ballots cast in each precinct.

6 (d) The final canvass is concluded when the chair digitally
7 certifies the canvass report on the secretary of state's website.
8 The posting on the site that the results are final completes the
9 canvass report. The chair is not required to file any additional
10 notice or report with the county clerk.

11 SECTION 20. Sections 172.117(a), (a-1), and (a-2), Election
12 Code, are amended to read as follows:

13 (a) The county chair shall certify by posting on the
14 secretary of state's website a notation next to the name and address
15 of each primary candidate who is nominated for a county or precinct
16 office for placement on the general election ballot. The chair
17 shall digitally execute [~~and file with the county clerk~~] an
18 affidavit certifying that the returns posted on the secretary of
19 state's website are the correct and complete returns. The
20 secretary of state shall [~~may~~] adopt by rule a process to allow the
21 chair to submit the affidavit digitally.

22 (a-1) The secretary of state shall develop appropriate
23 notations to describe the status of each candidate. The notations
24 shall include:

- 25 (1) "filed";
26 (2) "withdrew";
27 (3) "lost primary";

- 1 (4) "in runoff";
- 2 (5) "lost runoff";
- 3 (6) "deceased"; ~~[or]~~
- 4 (7) "declared ineligible"; or
- 5 (8) "nominee for general election."

6 (a-2) The county chair shall update the notations after each
7 general primary and runoff primary election. After any withdrawal
8 or death of a candidate, and subsequent replacement of the
9 candidate on the ballot, the chair shall notify the state chair, who
10 shall update the notation on the website. All notations must be
11 completed and accurate on the date prescribed by the secretary of
12 state by rule to ensure that an authority printing general election
13 ballots may rely on the information.

14 SECTION 21. Section 172.118, Election Code, is amended to
15 read as follows:

16 Sec. 172.118. NOTICE OF PERSONS ELECTED AS PARTY OFFICERS.

17 (a) Not later than the 20th day after the date the local canvass is
18 completed, the county chair shall post on the secretary of state's
19 website ~~[deliver written notice to the state chair and to the county~~
20 ~~clerk of]~~ the names of the persons elected as county chair and
21 precinct chairs for the county. ~~[This notice may be given by~~
22 ~~electronic means or through an electronic submission system adopted~~
23 ~~by the state executive committee of the party.]~~

24 (b) The notice must include:

- 25 (1) each party officer's address;
- 26 (2) [and] each precinct chair's precinct number; and
- 27 (3) each precinct officer's phone number and e-mail

1 address, if supplied by the officer.

2 (c) The secretary of state shall make information described
3 by Subsections (b)(1) and (3) available to the state chair, but not
4 available to the public. [~~The county clerk shall preserve the~~
5 ~~notice until the county clerk receives notice of the party officers~~
6 ~~elected at the succeeding primary election.~~]

7 (d) Any appointment to fill a vacancy in the office of
8 precinct or county chair shall be posted on the secretary of state's
9 website. [~~On request of the secretary of state, the state chair~~
10 ~~shall deliver to the secretary written notice of the names and~~
11 ~~addresses of the party's county chairs. This notice may be given in~~
12 ~~electronic format as set out in rules adopted by the secretary of~~
13 ~~state.~~]

14 SECTION 22. Section 172.121, Election Code, is amended to
15 read as follows:

16 Sec. 172.121. CERTIFICATION OF CANDIDATES FOR STATEWIDE AND
17 DISTRICT OFFICES FOR PLACEMENT ON RUNOFF BALLOT. (a) The state
18 chair shall certify on the secretary of state's website [~~in~~
19 ~~writing~~] for placement on the runoff primary election ballot the
20 name of each general primary candidate for a statewide or district
21 office who is to be a candidate in the runoff.

22 (b) The state chair shall deliver the certification by
23 posting next to the candidate's name on the secretary of state's
24 website whether the person lost in the primary or is in a runoff for
25 the position [~~to the county chair in each affected county~~] as soon
26 as practicable after the state canvass of the general primary
27 election is completed.

1 SECTION 23. Section 172.122(a), Election Code, is amended
2 to read as follows:

3 (a) The state chair shall certify by posting on the
4 secretary of state's website the name and address of each primary
5 candidate who is nominated for a statewide or district office. The
6 state chair shall execute and file digitally with the secretary of
7 state an affidavit certifying that the returns posted on the
8 secretary of state's website are the correct and complete returns.
9 The secretary of state shall [~~may~~] adopt by rule a process to allow
10 the chair to submit the affidavit digitally.

11 SECTION 24. Section 172.123, Election Code, is amended by
12 adding Subsection (c) to read as follows:

13 (c) The requirements of this section may be met by entering
14 the results on the secretary of state's website if the secretary of
15 state maintains a website for that purpose.

16 SECTION 25. Section 172.124(b), Election Code, is amended
17 to read as follows:

18 (b) The county clerk [~~chair~~] shall deliver the report to the
19 secretary of state not later than the 30th day after primary
20 election day.

21 SECTION 26. Section 172.126, Election Code, is amended by
22 amending Subsection (e) and adding Subsection (g-1) to read as
23 follows:

24 (e) The county clerk shall obtain the candidates' names that
25 are to appear on the primary ballot, office sought, and candidate
26 and office ballot order from the certified list on the secretary of
27 state's website [~~A written certification of the candidates' names~~

1 ~~that are to appear on the primary ballot shall be delivered to the~~
2 ~~county clerk in accordance with rules prescribed by the secretary~~
3 ~~of state].~~

4 (g-1) A voter shall be allowed privacy to the extent
5 possible when indicating the voter's choice as to which political
6 party's primary the voter chooses to vote in. A voter may indicate,
7 without verbalizing, the voter's choice by pointing to which
8 party's ballot the voter chooses. The secretary of state shall
9 prescribe a sign to inform voters of this option, and the co-judges
10 of each polling place shall post the sign beside the signature
11 roster.

12 SECTION 27. Section 172.127, Election Code, is amended by
13 amending Subsection (b) and adding Subsection (c) to read as
14 follows:

15 (b) The presiding judge or alternate presiding judge for the
16 precinct may post signs at [~~A sign used to indicate the location of~~]
17 a polling place for a primary election or a primary runoff election
18 that [~~must either~~]:

19 (1) identify [~~not contain~~] the names [~~name~~] of, or
20 symbols [~~symbol~~] representing, any political parties [~~party that~~
21 ~~is~~] holding an election at the polling place; and [~~or~~]

22 (2) do not refer to a candidate or measure on the
23 ballot [~~contain each name of, or each symbol representing, a~~
24 ~~political party that is holding an election at the polling place~~].

25 (c) The secretary of state shall adopt rules to provide that
26 signs posted as authorized by Subsection (b) in the same county have
27 a similar size and format.

1 SECTION 28. Sections 172.128(a) and (c), Election Code, are
2 amended to read as follows:

3 (a) Notwithstanding a conflicting provision of this code, a
4 primary election that is required for the nomination of a political
5 party to a statewide office, a multicounty district office, or a
6 presidential primary election shall be held in accordance with this
7 section in a county in which:

8 (1) the office of county chair is vacant and there is
9 an insufficient number of members serving on the county executive
10 committee to fill a vacancy on the committee; and

11 (2) the party is unable to establish a temporary
12 executive committee under Section 171.027.

13 (c) The county clerk may combine voting precincts
14 ~~[designate the location of the polling place]~~ for an election held
15 under this section to the extent necessary to ~~[at the main early~~
16 ~~voting polling place or designate a location to serve as a polling~~
17 ~~place in the county seat of the county if the polling place is~~
18 ~~located so that it will]~~ adequately serve the voters.

19 SECTION 29. Subchapter E, Chapter 172, Election Code, is
20 amended by adding Sections 172.129 and 172.130 to read as follows:

21 Sec. 172.129. STATEMENTS MADE BY ELECTION OFFICER WHEN
22 PRIMARIES CONDUCTED AT SAME LOCATION. (a) This section applies
23 only to a polling place used to hold an election for more than one
24 political party.

25 (b) An election officer conducting a primary election may
26 not:

27 (1) suggest a political party's ballot to a voter; or

1 (2) discuss any race on the ballot with a voter.

2 Sec. 172.130. ACTION BY STATE CHAIR TO MEET DEADLINES FOR
3 CONDUCT OF PRIMARY. (a) Notwithstanding a conflicting provision
4 of this code, the state chair, or the state chair's designee, may
5 perform any administrative duty of the county chair or county
6 executive committee related to the conduct of a primary election
7 that has not been performed in the time required by law, including
8 the submission of candidate information under Section 172.029,
9 drawing for ballot order under Sections 172.082 and 172.084, and
10 canvassing returns under Section 172.116.

11 (b) The state chair must notify the county chair or county
12 executive committee in writing or electronically that a duty has
13 been performed under the authority of this section.

14 (c) If a county chair has a reasonable impediment or lacks
15 appropriate technology to perform any administrative duty of the
16 county chair related to the conduct of a primary election within the
17 time required by law, the county chair may request the state chair,
18 or the state chair's designee, perform the duty instead of the
19 county chair.

20 (d) The state chair may act in the role of the county chair
21 for the purposes of Subchapter D, Chapter 173, with the approval of
22 the secretary of state.

23 (e) The secretary of state shall adopt rules to implement
24 this section in accordance with the conduct of elections and with
25 party rule.

26 SECTION 30. Section 173.001(d), Election Code, is amended
27 to read as follows:

1 (d) If the amount of the funds appropriated for the
2 financing of primary elections is insufficient to satisfy the
3 requests for those funds made under this code, the secretary of
4 state may distribute the amount of the appropriation on a pro rata
5 basis. Each party chair or executive committee is entitled to a
6 proportionate share of that amount according to that committee's
7 percentage of the total amount requested.

8 SECTION 31. Section [173.010](#), Election Code, is amended to
9 read as follows:

10 Sec. 173.010. FURNISHING RULES AND GUIDELINES. During
11 October [~~November~~] preceding each primary election year, the
12 secretary of state shall post on the secretary's website [~~deliver~~
13 ~~to the state chair and each county chair of each political party~~
14 ~~holding a primary election~~] a current set of the rules and any
15 available guidelines adopted under this subchapter. The secretary
16 of state shall e-mail each state or county chair who has provided
17 the secretary of state an e-mail address when the rules and
18 guidelines have been posted. If a rule or amendment of a rule is
19 adopted after the set is posted [~~delivery of the set~~], the secretary
20 shall update the posting with the new rule or amendment [~~deliver a~~
21 ~~copy of the rule or amendment~~] not later than the 10th day after the
22 date of its adoption.

23 SECTION 32. Section [173.032](#), Election Code, is amended by
24 adding Subsection (c) to read as follows:

25 (c) The state chair may, with the consent of the secretary
26 of state and the county executive committee, if one exists for the
27 county, accept money into the state primary fund on behalf of a

1 county party. The state chair must keep records to track the money
2 that is attributable to a county.

3 SECTION 33. Section 173.033, Election Code, is amended to
4 read as follows:

5 Sec. 173.033. USE OF PRIMARY FUND. (a) The county primary
6 fund shall be used to pay expenses incurred by the county chair [~~or~~
7 ~~county executive committee~~] in connection with a primary election.

8 (b) The state primary fund shall be used to pay expenses
9 incurred by the state chair [~~or state executive committee~~] in
10 connection with a primary election.

11 (c) A primary fund may not be used for any other purpose,
12 except as provided by Section 173.032(c).

13 SECTION 34. Section 173.034, Election Code, is amended to
14 read as follows:

15 Sec. 173.034. MANAGING PRIMARY FUND. (a) The county chair
16 [~~executive committee~~] shall manage the county primary fund.

17 (b) The state chair [~~executive committee~~] shall manage the
18 state primary fund.

19 SECTION 35. Section 173.036(a), Election Code, is amended
20 to read as follows:

21 (a) The secretary of state may approve an expenditure of
22 state funds for an audit of:

23 (1) the state primary fund or a county primary fund on
24 request of the state chair; or

25 (2) a county primary fund on request of a county chair.

26 SECTION 36. The heading to Section 173.062, Election Code,
27 is amended to read as follows:

1 Sec. 173.062. FEE PAID TO STATE CHAIR FOR DISTRICT OFFICES
2 REMITTED TO SECRETARY OF STATE [~~ALLOCATED AMONG COUNTY COMMITTEES~~].

3 SECTION 37. Section 173.062(a), Election Code, is amended
4 to read as follows:

5 (a) The [~~state chair shall allocate the~~] filing fee for a
6 district office accompanying an application for a place on the
7 ballot filed with the state chair during the regular filing period
8 shall be remitted to the secretary of state and deposited in the
9 state treasury for the financing of primary election expenses
10 [~~among the county executive committees serving the counties~~
11 ~~comprising the district~~].

12 SECTION 38. Section 173.081, Election Code, is amended by
13 amending Subsections (a) and (c) and adding Subsection (g) to read
14 as follows:

15 (a) Regardless of whether state funds are requested for
16 paying primary expenses, a state or county chair shall submit to the
17 secretary of state a written statement of estimated expenses to be
18 incurred by the chair in connection with a primary election [~~shall~~
19 ~~be submitted to the secretary of state by:~~

20 [~~(1) the county chair, for expenses of the county~~
21 ~~chair or county executive committee, or~~

22 [~~(2) the state chair, for expenses of the state chair~~
23 ~~or state executive committee~~].

24 (c) A statement for a general primary election must also:

25 (1) state the amount of:

26 (A) the primary candidates' filing fees required
27 to be deposited in the county primary fund if the statement is

1 submitted by a county chair, or in the state primary fund if the
2 statement is submitted by the state chair, that have been received
3 by the authority submitting the statement; and

4 (B) the contributions to the county chair or
5 executive committee if the statement is submitted by a county
6 chair, or to the state chair or executive committee if the statement
7 is submitted by the state chair, that:

8 (i) are for the purpose of defraying
9 primary election expenses; and

10 (ii) have not been included in a report
11 filed under Section 173.084 for a previous primary election year;
12 and

13 (2) be submitted not later than the 45th day before
14 general primary election day.

15 (g) The state chair of a party, or the state chair's
16 designee, may submit a statement under this section on behalf of a
17 county chair if the county chair:

18 (1) requests the state chair to submit the statement
19 on the county chair's behalf; or

20 (2) fails to submit the statement by the deadline.

21 SECTION 39. Section 173.0832, Election Code, is amended to
22 read as follows:

23 Sec. 173.0832. DIRECT REPAYMENT TO AUTHORITY CONDUCTING
24 PRIMARY ELECTION UNDER CONTRACT IN CERTAIN COUNTIES. On request of
25 a county election officer [~~of a county with a population of 100,000~~
26 ~~or more~~] who conducts a primary election under an election services
27 contract authorized under Subchapter D, Chapter 31, the secretary

1 of state shall [~~may~~] provide payment of primary expenses directly
2 to the officer who incurs the expense rather than to the county
3 chair under this subchapter. The secretary of state shall
4 prescribe procedures to implement this section.

5 SECTION 40. Subchapter D, Chapter 173, Election Code, is
6 amended by adding Section 173.0833 to read as follows:

7 Sec. 173.0833. DIRECT BILLING OF CERTAIN PRIMARY EXPENSES.

8 (a) This section applies to election services and materials
9 provided by a vendor for use in a primary election or primary runoff
10 election, including:

11 (1) the printing of paper ballot material containing
12 candidates' names used in a polling place;

13 (2) the programming and testing of voting system
14 equipment, including ballot layout, programming of equipment, and
15 audio production;

16 (3) site support or technical support other than the
17 programming or testing of voting system equipment;

18 (4) nonballot election materials used in a precinct on
19 election day, including election kits, required party stamps,
20 distance signs, and required forms; and

21 (5) the rental of non-county-owned electronic voting
22 system equipment, including media components.

23 (b) A vendor providing election services or materials to a
24 county chair or a county election officer contracting with a county
25 chair for a primary or runoff primary election shall directly bill
26 the secretary of state for the cost of the services or materials
27 used on election day for which state funding is available under this

1 chapter.

2 (c) The county chair or the county election officer
3 contracting with the county chair for whom a vendor provides
4 election services or materials to be directly billed to the
5 secretary of state under this section:

6 (1) shall direct the vendor to remit final invoices to
7 the secretary of state for payment; and

8 (2) may examine an invoice for accuracy after the
9 invoice is submitted to the secretary of state for payment.

10 (d) If after a review under Subsection (c)(2) an adjustment
11 is required, the county chair or county election officer shall
12 notify the vendor and the secretary of state. The vendor shall
13 submit a corrected invoice and the secretary of state shall adjust
14 the payment accordingly.

15 (e) An invoice submitted to the secretary of state by a
16 vendor for payment under this section must be in an electronic
17 spreadsheet format prescribed by the secretary of state and list
18 each county to which the vendor provides election services or
19 materials. For each county to which a vendor provides election
20 services or materials a submission must include:

21 (1) the name of the political party;

22 (2) the invoice number;

23 (3) the date of submission;

24 (4) the number of ballots printed, if any;

25 (5) whether an order for ballot printing or
26 programming of voting system equipment was placed by the county
27 chair or an entity contracting with the county chair to hold the

1 primary; and

2 (6) the specific type of election services or
3 materials provided.

4 (f) A vendor may not submit an invoice directly billing the
5 secretary of state for a primary election expense required to be
6 paid by the county under Section 173.003.

7 (g) The direct payment by the secretary of state of an
8 invoice under this section does not affect the payments calculated
9 for county chairs under Section 173.004 or compensation of a county
10 election officer under Section 31.100.

11 (h) The secretary of state may adopt rules as necessary to
12 implement this section.

13 SECTION 41. Section 173.084, Election Code, is amended by
14 amending Subsections (b) and (d) and adding Subsection (b-1) to
15 read as follows:

16 (b) The authority preparing the report shall file it with
17 the secretary of state not later than August 31 following the
18 applicable primary election [~~the 30th day after runoff primary~~
19 ~~election day or not later than the 30th day after general primary~~
20 ~~election day if no runoff primary is held in the county~~], in the
21 case of the county chair's report, or if no runoff primary is held
22 for a statewide or district office, in the case of the state chair's
23 report.

24 (b-1) The secretary for good cause, including failure of a
25 vendor or a county election officer contracted to conduct the
26 election to provide complete invoices in a timely fashion, may
27 extend the filing deadline.

1 (d) Any compensation claimed under Section [173.004](#) shall
2 ~~may~~ be forfeited on the failure of a county chair to file a timely
3 report.

4 SECTION 42. Section [173.0851](#)(a), Election Code, is amended
5 to read as follows:

6 (a) Any surplus remaining in a primary fund shall be
7 remitted to the secretary of state immediately after the final
8 payment from the fund of the necessary expenses for holding the
9 primary elections for that year upon request of the secretary of
10 state ~~[, but not later than July 1 following the applicable primary~~
11 ~~election]~~. The surplus in a primary fund shall be remitted
12 regardless of whether state funds were requested by the chair.

13 SECTION 43. The following provisions of the Election Code
14 are repealed:

- 15 (1) Sections [172.084](#)(b), (c), (d), and (e);
- 16 (2) Sections [172.113](#)(b) and (c);
- 17 (3) Section [172.119](#);
- 18 (4) Section [172.127](#)(a);
- 19 (5) Sections [173.062](#)(b), (c), and (d);
- 20 (6) Section [173.064](#); and
- 21 (7) Section [173.088](#).

22 SECTION 44. The change in law made by this Act in amending
23 Section [162.014](#)(b), Election Code, applies only to an offense
24 committed on or after the effective date of this Act. An offense
25 committed before the effective date of this Act is governed by the
26 law in effect when the offense was committed, and the former law is
27 continued in effect for that purpose. For purposes of this section,

C.S.H.B. No. 3840

1 an offense was committed before the effective date of this Act if
2 any element of the offense occurred before that date.

3 SECTION 45. This Act takes effect September 1, 2017.