

By: Hall

S.B. No. 405

A BILL TO BE ENTITLED

AN ACT

relating to voting and election procedures; creating an offense.

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

SECTION 1. Section 52.075, Election Code, is amended to read as follows:

Sec. 52.075. MODIFICATION OF BALLOT FORM FOR CERTAIN VOTING SYSTEMS. The secretary of state may prescribe the form and content of a ballot for an election using a voting system, including an electronic voting system ~~[or a voting system that uses direct recording electronic voting machines]~~, to conform to the formatting requirements of the system.

SECTION 2. Sections 85.001(a) and (c), Election Code, are amended to read as follows:

(a) The period for early voting by personal appearance begins on the 10th ~~[17th]~~ day before election day and continues through the fourth day before election day, except as otherwise provided by this section.

(c) If the date prescribed by Subsection (a) ~~[or (b)]~~ for beginning the period is a Saturday, Sunday, or legal state holiday, the early voting period begins on the next regular business day.

SECTION 3. Section 85.005(d), Election Code, is amended to read as follows:

(d) In an election ordered by a city, early voting by personal appearance at the main early voting polling place shall be

conducted for at least 12 hours[+]

~~[(1)] on one weekday[, if the early voting period consists of less than six weekdays, or~~

~~[(2) on two weekdays, if the early voting period consists of six or more weekdays].~~

SECTION 4. Sections 85.006(a), (d), and (e), Election Code, are amended to read as follows:

(a) Except as provided by Subsection (b), the authority ordering an election may order early voting by personal appearance at the main early voting polling place to be conducted on a Saturday or Sunday ~~[one or more Saturdays or Sundays]~~ during the early voting period.

(d) The authority authorized to order early voting on a Saturday or Sunday under Subsection (a) or (b) shall order the voting under the applicable subsection on receipt of a written request submitted by at least 15 registered voters of the territory covered by the election. The request must be submitted in time to enable compliance with Section 85.007. The authority ~~[is not required to order the voting on a particular date specified by the request but]~~ shall order the voting on ~~[at least one]~~ Saturday if ~~[a]~~ Saturday is requested and on ~~[at least one]~~ Sunday if ~~[a]~~ Sunday is requested.

(e) In a primary election or the general election for state and county officers in a county with a population of 100,000 or more, the early voting clerk shall order personal appearance voting at the main early voting polling place to be conducted for at least 12 hours on ~~[the last]~~ Saturday and for at least five hours on ~~[the~~

1 ~~last~~] Sunday during ~~[of]~~ the early voting period. The early voting  
2 clerk shall order voting to be conducted at those times in those  
3 elections in a county with a population under 100,000 on receipt of  
4 a written request for those hours submitted by at least 15  
5 registered voters of the county. The request must be submitted in  
6 time to enable compliance with Section 85.007. This subsection  
7 supersedes any provision of this subchapter to the extent of any  
8 conflict.

9 SECTION 5. Section 85.010(b), Election Code, is amended to  
10 read as follows:

11 (b) A political subdivision that holds an election  
12 described by Subsection (a) shall designate as an early voting  
13 polling place for the election any early voting polling place~~[~~  
14 ~~other than a polling place established under Section 85.062(e),]~~  
15 established by the county and located in the political subdivision.

16 SECTION 6. Sections 85.062(a) and (b), Election Code, are  
17 amended to read as follows:

18 (a) Except as provided by Subsection (d) ~~[or (e)]~~, one or  
19 more early voting polling places other than the main early voting  
20 polling place may be established by:

21 (1) the commissioners court, for an election in which  
22 the county clerk is the early voting clerk; or

23 (2) the governing body of the political subdivision  
24 served by the authority ordering the election, for an election in  
25 which a person other than the county clerk is the early voting  
26 clerk.

27 (b) A polling place established under this section may be

located, subject to Subsection (d), at any place in the territory served by the early voting clerk and may be located in any stationary structure as directed by the authority establishing the branch office. The polling place may be located in a movable structure, but the structure may not change locations during the early voting period ~~[in the general election for state and county officers, general primary election, or runoff primary election]~~. Ropes or other suitable objects may be used at the polling place to ensure compliance with Section 62.004. Persons who are not expressly permitted by law to be in a polling place shall be excluded from the polling place to the extent practicable.

SECTION 7. Section 85.063, Election Code, is amended to read as follows:

Sec. 85.063. DAYS AND HOURS FOR VOTING: PERMANENT OR TEMPORARY BRANCH. Early voting by personal appearance at each permanent or temporary branch polling place shall be conducted on the same days and during the same hours as voting is conducted at the main early voting polling place.

SECTION 8. Section 85.068(a), Election Code, is amended to read as follows:

(a) The early voting clerk shall post notice for each election stating any dates and the hours that voting on Saturday or Sunday will be conducted at a temporary branch polling place ~~[under Section 85.064(d) or 85.065(b)]~~, if the early voting clerk is a county clerk or city secretary under Section 83.002 or 83.005.

SECTION 9. Section 122.001(a), Election Code, is amended to read as follows:

(a) A voting system may not be used in an election unless the system:

(1) preserves the secrecy of the ballot;

(2) is suitable for the purpose for which it is intended;

(3) operates safely, efficiently, and accurately and complies with the voting system standards adopted by the Election Assistance Commission;

(4) is safe from fraudulent or unauthorized manipulation;

(5) permits voting on all offices and measures to be voted on at the election;

(6) prevents counting votes on offices and measures on which the voter is not entitled to vote;

(7) prevents counting votes by the same voter for more than one candidate for the same office or, in elections in which a voter is entitled to vote for more than one candidate for the same office, prevents counting votes for more than the number of candidates for which the voter is entitled to vote;

(8) prevents counting a vote on the same office or measure more than once;

(9) permits write-in voting;

(10) is capable of permitting straight-party voting;

~~and~~

(11) is capable of providing records from which the operation of the voting system may be audited; and

(12) uses a paper record or produces a paper receipt

1 that can be used to verify the tabulation of electronic voting  
2 system results.

3 SECTION 10. Subchapter A, Chapter 123, Election Code, is  
4 amended by adding Section 123.010 to read as follows:

5 Sec. 123.010. DIRECT RECORDING ELECTRONIC VOTING SYSTEM  
6 PROHIBITED. Except as necessary to comply with Section 61.012, an  
7 authority may not adopt a voting system that uses direct recording  
8 electronic voting machines.

9 SECTION 11. Section 128.001, Election Code, is amended by  
10 adding Subsection (d) to read as follows:

11 (d) The secretary of state shall compile procedures adopted  
12 under this section for voting and for reconciliation of votes cast  
13 using computerized voting systems into a list. The list of  
14 procedures must apply uniformly across the state.

15 SECTION 12. Section 216.001, Election Code, is amended to  
16 read as follows:

17 Sec. 216.001. APPLICABILITY OF CHAPTER. This chapter  
18 applies only to:

19 (1) an election that results in a tie vote as provided  
20 by Sections 2.002(i), 2.023(b) and (c), and 2.028; or

21 (2) a precinct described by Section 216.006.

22 SECTION 13. Chapter 216, Election Code, is amended by  
23 adding Section 216.006 to read as follows:

24 Sec. 216.006. AUTOMATIC RECOUNT: DISCREPANCY. (a) This  
25 section applies to a precinct that has completed a vote count under  
26 Chapter 65 in which the total number of ballots counted differs by  
27 at least 0.5 percent from the number of people who signed the

precinct's signature roster under Section 63.002.

(b) The presiding judge of a precinct described by Subsection (a) shall conduct a recount under this chapter.

(c) A person commits an offense if the person canvasses a precinct's returns prior to the completion of a recount required by this section. An offense under this subsection is a Class A misdemeanor.

SECTION 14. (a) The following provisions of the Election Code are repealed:

- (1) Section 43.004(c);
- (2) Section 43.007;
- (3) Section 66.058(g);
- (4) Sections 85.001(b) and (e);
- (5) Section 85.062(e);
- (6) Section 85.064;
- (7) Section 85.065;
- (8) Section 127.201(g);
- (9) Chapter 129; and
- (10) Section 213.016.

(b) Section 33.05, Penal Code, is repealed.

SECTION 15. This Act takes effect September 1, 2017.