By:  Schofield H.B. No. 234

A BILL TO BE ENTITLED

AN ACT

Relating to separating the conducting of federal elections from state and local elections.

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

SECTION 1.  PURPOSE. The purpose of this Act is to exercise the legislature's constitutional authority to regulate elections in this state. It is the intent of the legislature that elections for state, county, and local offices be conducted concurrently with federal elections to the extent possible, but that any federal law regarding the conduct of elections not exceed Congress's authority under Article 2 of the United States Constitution to regulate elections for Congress and therefore the legislature intends that such federal authority not extend to ballot measures or elections for state, county, or local offices in this state.

SECTION 2.  Section 1.002, Election Code, is amended to read as follows:

Sec. 1.002.  APPLICABILITY OF CODE. This code applies to all general, special, federal, and primary elections held in this state.

SECTION 3.  Sec. 1.005, Election Code, is amended by amending subsections (4), (7), (14), and (19), and adding subsections (25) and (26) as follows:

(4)  "District office" means an office of the federal or state government that is not voted on statewide. If federal law requires an election for a federal office to be conducted using procedures that conflict with this code, any federal office that is elected by district would adhere to federal procedures when in conflict with state law.

(7)  "General election for state and county officers" means the general election at which the officers of the ~~federal,~~ state~~,~~ and county governments are elected. It does not include a federal election, even if such election is held concurrently.

(14)  "Primary election" means an election held by a political party under Chapter 172 to select its nominees for public office, and, unless the context indicates otherwise, the term includes ~~a presidential~~ primary election for federal office, unless, and to the extent, federal law requires the election to be conducted using procedures that conflict with this code.

(19)  "Statewide office" means an office of the federal or state government that is voted on statewide. If federal law requires an election for a federal office to be conducted using procedures that conflict with this code, any federal office that is elected statewide would adhere to federal procedures when in conflict with state law.

(25)  "Federal election" means a primary or general election for federal office or any run-off election for said office. A federal election shall not include any ballot measure nor state, county, or local office.

(26)  "Federal office" means the offices of president and vice-president of the United States, United States senator, or United States representative.

SECTION 4.  Chapter 41, Election Code, is amended by adding Section 41.003 to read as follows:

Sec. 41.003.  GENERAL ELECTION FOR FEDERAL OFFICES. The general election for federal offices shall be held on the first Tuesday after the first Monday in November in even-numbered years and shall, to the extent feasible, be held concurrently with the general election for state and county officers.

SECTION 5.  Section 41.007, Election Code, is amended to read as follows:

Sec. 41.007.  PRIMARY ELECTIONS. (a) The general primary election date is the first Tuesday in March in each even-numbered year.

(b)  The runoff primary election date is the fourth Tuesday in May following the general primary election.

~~(c)  The presidential primary election is the first Tuesday in March of each presidential year.~~

(d)  No other election, other than a primary election for federal office, may be held on the date of a primary election.

SECTION 6.  The Election Code is amended by adding Section 41.0075, to read as follows:

Sec. 41.0075.  PRIMARY ELECTION FOR FEDERAL OFFICE. (a) The primary election date for an election for federal office is the first Tuesday in March in each even-numbered year.

(b)  The runoff primary election date for an election for federal office is the fourth Tuesday in May following the primary election for federal office.

(c)  The presidential primary election date is the first Tuesday in March in each presidential election year.

SECTION 7.  Section 42.002, Election Code, is amended to read as follows:

Sec. 42.002.  REQUIRED USE OF COUNTY PRECINCTS. (a) The county election precincts are the election precincts for the following elections:

(1)  the general election for state and county officers;

(2)  a federal election;

(~~2~~3)  a special election ordered by the governor;

(~~3~~4)  a primary election;

(~~4~~5)  a countywide election ordered by the commissioner's court, county judge, or other county authority, except an election subject to Section 42.062(2); and

(b)  Except as provided by Sections 42.008 and 42.009, county election precincts may not be consolidated for an election.

SECTION 8.  Section 101.052, Election Code, is amended by adding subsection (m) to read as follows:

(m)  A federal postcard application that is sufficient to constitute a voter registration application under federal law, but which does not meet the requirements of this section, does not constitute registration by the applicant under Title 2 and instead constitutes registration only for federal elections under Chapter 107.

SECTION 9.  Section 101.055, Election Code, is amended by amending subsection (a) and adding subsection (a-1), to read as follows:

(a)  The submission of a federal postcard application that complies with the applicable requirements by an unregistered applicant constitutes registration by the applicant:

(1)  for the purpose of voting in the election for which the ballot was requested, provided that the applicant may only vote a federal ballot unless the application complies with the requirements for registration under Title 2;

(2)  under Title 2 if the application complies with the requirements for registration under Title 2, unless the person indicates on the application that the person is residing outside the United States indefinitely.

(a-1)  If the submission of a federal postcard application under Subsection (a) is sufficient to constitute a voter registration application under federal law but does not meet the requirements for registration under Title 2, the application does not constitute registration by the applicant under Title 2 and instead constitutes registration only for federal elections under Chapter 107.

SECTION 10.  The Election Code is amended by adding Chapter 107, to read as follows:

CHAPTER 107. FEDERAL ELECTIONS

Sec. 107.001  FEDERAL ELECTIONS. (a) A federal election is a separate election from any other election in this state, including without limitation a ballot measure or an election for state, county, or local office.

(b)  An election for a ballot measure, or for a state, county, or local office shall be conducted in accordance with this code. Any federal law regulating the conduct of an election shall apply in this state only to a federal election.

(c)  The secretary of state shall by rule modify election procedures to the limited extent necessary to allow federal elections and state elections to be held separately but concurrently in accordance with this chapter. The secretary in doing so shall minimize disruption and voter confusion to the fullest extent feasible by sharing polling locations, voting stations, and other similar measures.

Sec. 107.002  DEFINITIONS. In this chapter:

(1)  "Federal ballot" means a ballot that is restricted to federal offices only.

(2)  "Federal election" means a primary or general election for federal office or any run-off election for said office. A federal election shall not include any ballot measure nor state, county, or local office.

(3)  "Federal office" means the offices of president and vice-president of the United States, United States senator, or United States representative.

(4)  "Local office" shall mean an office of any political subdivision in this state as defined by Sec. 1-005(13) of this code.

Sec. 107.003.  ELIGIBILITY. (a) A person is eligible to vote in a federal election if:

(1)  the person is qualified to vote in this state under Title 2;

(2)  the person, if not registered to vote in this state, would be qualified if registered; and the person is:

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

(b)  a member of the merchant marine of the United States, or the spouse or dependent of a member;

(b-1)  a member of the Texas National Guard or the National Guard of another state or a member of a reserve component of the armed forces of the United States serving on active duty under an order of the president of the United States or activated on state orders, or the spouse or dependent of a member;

(c)  domiciled in this state but temporarily living outside the territorial limits of the United States and the District of Columbia;

(3)  the person is registered to vote under federal law, but the person's registration does not comply with Title 2; or

(4)  the person declines to follow procedures required by this code to vote, which procedures are proscribed by federal law for use in federal elections, and wishes to vote a federal ballot, if the person is otherwise to qualified to vote in a federal election.

(b)  A person who is registered to vote under federal law, but whose registration does not comply with the requirements for registration under Title 2, is eligible to vote in a federal election, but is not eligible to vote in any election for a ballot measure, or state, county, or local office. Such person may only vote a federal ballot.

(c)  If a person to whom subsection (b) applies subsequently submits a valid registration under Title 2, that person becomes a qualified voter for any election for a ballot measure, or state, county, or local office upon the expiration of 30 days after the voter submitted the application to the voter registrar in the county where the person resides if the application is approved under Section 13.072.

Sec. 107.004.  GENERAL CONDUCT OF VOTING. An election for federal office shall be conducted and the results shall be processed under the provisions of this code to extent not contradicted by federal law. To the extent that federal law conflicts with a provision of this code, an election for federal office shall be conducted and the results shall be processed under the provisions of the applicable federal law.

SECTION 11.  If any provision of this Act or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this Act that can be given effect without the invalid provision or application, and to this end the provisions of this Act are declared to be severable.

SECTION 12.  This Act takes effect on the 91st day after the

last day of the legislative session at which it is enacted.