

By: Murr

H.B. No. 82

A BILL TO BE ENTITLED

AN ACT

relating to the presidential electors of this state.

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

SECTION 1. The heading to Section 192.004, Election Code, is amended to read as follows:

Sec. 192.004. ELECTOR CANDIDATE WITHDRAWAL [~~VACANCY~~].

SECTION 2. Subchapter A, Chapter 192, Election Code, is amended by adding Section 192.009 to read as follows:

Sec. 192.009. REPLACEMENT NOMINEE. An elector shall consider a replacement candidate certified under Subchapter C to be the presidential or vice-presidential candidate for whom the elector is the corresponding presidential elector candidate.

SECTION 3. The heading to Subchapter C, Chapter 192, Election Code, is amended to read as follows:

SUBCHAPTER C. WITHDRAWAL, DEATH, AND INELIGIBILITY OF PRESIDENTIAL AND VICE-PRESIDENTIAL CANDIDATES; CERTIFICATION OF ABILITY TO SERVE

SECTION 4. Section 192.062(a), Election Code, is amended to read as follows:

(a) The secretary of state shall certify in writing [~~for placement on the ballot~~] the name of a political party's replacement nominee for president or vice-president of the United States as follows [~~if~~]:

(1) for placement on the ballot for an [~~the~~] original

1 nominee who withdraws, dies, or is declared ineligible on or before
2 the 74th day before presidential election day if [~~and~~

3 [~~(2)~~] the party's state chair delivers certification of
4 the replacement nominee's name, signed by the state chair, to the
5 secretary of state not later than 5 p.m. of the 71st day before
6 presidential election day; or

7 (2) to the nominating party's presidential elector
8 candidates for an original nominee who withdraws, dies, or is
9 declared ineligible after the 74th day before presidential election
10 day if the party's state chair delivers certification of the
11 replacement nominee's name, signed by the state chair, to the
12 secretary of state not later than 2 p.m. on the Monday after the
13 second Wednesday in December of a presidential election year.

14 SECTION 5. Section 192.064(a), Election Code, is amended to
15 read as follows:

16 (a) The secretary of state shall certify in writing [~~for~~
17 ~~placement on the ballot~~] the name of a replacement
18 vice-presidential running mate for an independent candidate for
19 president of the United States as follows [~~if~~]:

20 (1) for placement on the ballot for an [~~the~~] original
21 running mate who withdraws, dies, or is declared ineligible on or
22 before the 74th day before presidential election day if [~~and~~

23 [~~(2)~~] the independent presidential candidate delivers
24 certification of the replacement running mate's name, signed by the
25 presidential candidate, to the secretary of state not later than 5
26 p.m. of the 71st day before presidential election day; or

27 (2) to the presidential candidate's corresponding

1 presidential elector candidates for an original running mate who
2 withdraws, dies, or is declared ineligible after the 74th day
3 before presidential election day if the independent presidential
4 candidate delivers certification of the replacement running mate's
5 name, signed by the presidential candidate, to the secretary of
6 state not later than 2 p.m. on the Monday after the second Wednesday
7 in December of a presidential election year.

8 SECTION 6. Subchapter C, Chapter 192, Election Code, is
9 amended by adding Section 192.065 to read as follows:

10 Sec. 192.065. CERTIFICATION OF ABILITY TO SERVE BY WINNING
11 CANDIDATE; AFFIRMATION OR DENIAL BY ELECTORS. (a) The candidates
12 for president and vice president who received the most votes in this
13 state in the general presidential election, or a legal
14 representative of such a candidate, shall certify not later than
15 the seventh day before the meeting of electors that the candidate is
16 willing and able to serve in the position for which the candidate
17 was elected.

18 (b) At the meeting of electors, the electors shall first
19 vote to affirm or deny the certification made under Subsection (a).
20 If a majority of electors vote to deny the certification that the
21 candidate is willing and able to serve, Subchapter D does not apply
22 to that meeting of electors with respect to the candidate for which
23 the certification was denied.

24 (c) If before the meeting of electors a candidate fails to
25 certify that the candidate is willing and able to serve as provided
26 by Subsection (a), the electors shall first vote on the issue of
27 whether each candidate is willing and able to serve in the position

1 for which the candidate was elected. If a majority of electors vote
2 that the candidate is not willing or able to serve in the position
3 for which the candidate was elected, Subchapter D does not apply to
4 that meeting of electors with respect to that candidate.

5 SECTION 7. Chapter 192, Election Code, is amended by adding
6 Subchapter D to read as follows:

7 SUBCHAPTER D. REQUIRED ACTION BY PRESIDENTIAL ELECTORS;

8 REPLACEMENT OF ELECTOR

9 Sec. 192.101. DESIGNATION OF STATE'S ELECTORS. Each
10 elector position in this state must be nominated in accordance with
11 political party rules or by an independent or write-in presidential
12 candidate, as applicable. Except as otherwise provided in Sections
13 192.103 and 192.104, this state's electors are the winning elector
14 nominees under the laws of this state.

15 Sec. 192.102. OATH. (a) Not later than the seventh day
16 before the meeting of electors, each elector nominee and alternate
17 elector nominee of a political party shall execute the following
18 oath: "If selected for the position of elector, I swear to serve and
19 to mark my ballots for president and vice president for the nominees
20 for those offices of the party that nominated me."

21 (b) Not later than the seventh day before the meeting of
22 electors, each elector nominee and alternate elector nominee of an
23 independent presidential candidate shall execute the following
24 oath: "If selected for the position of elector as a nominee of an
25 independent presidential candidate, I swear to serve and to mark my
26 ballots for that candidate and for that candidate's
27 vice-presidential running mate."

1 (c) The executed oaths must accompany the submission of the
2 corresponding names to the secretary of state.

3 Sec. 192.103. PRESIDING OFFICER; ELECTOR VACANCY. (a) The
4 secretary of state shall preside at the meeting of electors
5 described in Section 192.104.

6 (b) The position of an elector who is not present to vote or
7 who has failed to execute the oath under Section 192.102 is vacant.
8 The secretary of state shall fill a vacancy with a substitute
9 elector nominated in accordance with political party rules or named
10 by an independent or write-in candidate for president, as
11 applicable.

12 (c) To qualify as a substitute elector under Subsection (b),
13 an individual who has not executed the oath required under Section
14 192.102 shall execute the following oath: "I swear to serve and to
15 mark my ballots for president and vice president consistent with
16 the oath of the individual to whose elector position I have
17 succeeded."

18 Sec. 192.104. ELECTOR VOTING. (a) At the time designated
19 for elector voting and after all vacant positions have been filled
20 under Section 192.103, the secretary of state shall provide each
21 elector with a presidential and a vice-presidential ballot. The
22 elector shall mark the elector's presidential and
23 vice-presidential ballots with the elector's votes for the offices
24 of president and vice president, respectively, along with the
25 elector's signature and the elector's legibly printed name.

26 (b) Except as otherwise provided by law of this state other
27 than this subchapter, each elector shall present both completed

1 ballots to the secretary of state. The secretary of state shall
2 examine the ballots, read each vote publicly, and accept as cast all
3 ballots of electors whose votes are consistent with their oaths
4 executed under Section 192.102 or 192.103(c). Except as otherwise
5 provided by law, the secretary of state may not accept and may not
6 count either an elector's presidential or vice-presidential ballot
7 if the elector has not marked both ballots or has marked a ballot in
8 violation of the elector's oath.

9 (c) An elector who refuses to present a ballot, presents an
10 unmarked ballot, or presents a ballot marked in violation of the
11 elector's oath executed under Section 192.102 or 192.103(c) vacates
12 the office of elector, creating a vacant position to be filled under
13 Section 192.103.

14 (d) The secretary of state shall distribute ballots to and
15 collect ballots from a substitute elector and repeat the process
16 under this section of examining ballots, publicly reading the
17 votes, declaring and filling vacant positions as required, and
18 recording appropriately completed ballots from the substituted
19 electors, until all of this state's electoral votes have been cast
20 and recorded.

21 SECTION 8. The following provisions of the Election Code
22 are repealed:

- 23 (1) Sections 192.004(b), (c), and (d);
24 (2) Section 192.006(c); and
25 (3) Section 192.007.

26 SECTION 9. This Act takes effect immediately if it receives
27 a vote of two-thirds of all the members elected to each house, as

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1 provided by Section 39, Article III, Texas Constitution. If this
2 Act does not receive the vote necessary for immediate effect, this
3 Act takes effect on the 91st day after the last day of the
4 legislative session.