

By: Hall

S.B. No. 21

A BILL TO BE ENTITLED

AN ACT

relating to the practices and procedures of federal elections.

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

SECTION 1. Section 1.002(a), Election Code, is amended to read as follows:

(a) This code applies to all general, special, federal, and primary elections held in this state.

SECTION 2. Section 1.005, Election Code, is amended by amending Subdivisions (4-a), (7), (14), and (19) and adding Subdivisions (4-b) and (4-c) to read as follows:

(4-a) "Federal election" means a primary or general election for a federal office or a resulting runoff election.

(4-b) "Federal judge" means:

(A) a judge, former judge, or retired judge of a United States court of appeals;

(B) a judge, former judge, or retired judge of a United States district court;

(C) a judge, former judge, or retired judge of a United States bankruptcy court; or

(D) a magistrate judge, former magistrate judge, or retired magistrate judge of a United States district court.

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

1 (7) "General election for state and county officers"
2 means the general election at which officers of the [~~federal~~,]
3 state[~~,~~] and county governments are elected.

4 (14) "Primary election" means an election held by a
5 political party under Chapter 172 to select its nominees for public
6 office, and, unless the context indicates otherwise, the term
7 includes a [~~presidential~~] primary election for a federal office.

8 (19) "Statewide office" means an office of the
9 [~~federal or~~] state government that is voted on statewide.

10 SECTION 3. Chapters 11, 12, 13, 14, 15, 16, 17, 18, 19, and
11 20, Election Code, are designated as Subtitle A, Title 2, Election
12 Code, and a heading is added to Subtitle A to read as follows:

13 SUBTITLE A. GENERAL REQUIREMENTS

14 SECTION 4. Section 11.002(a), Election Code, is amended to
15 read as follows:

16 (a) In this code, "qualified voter" means a person who:

17 (1) is 18 years of age or older;

18 (2) is a United States citizen;

19 (3) has not been determined by a final judgment of a
20 court exercising probate jurisdiction to be:

21 (A) totally mentally incapacitated; or

22 (B) partially mentally incapacitated without the
23 right to vote;

24 (4) has not been finally convicted of a felony or, if
25 so convicted, has:

26 (A) fully discharged the person's sentence,
27 including any term of incarceration, parole, or supervision, or

1 completed a period of probation ordered by any court; or

2 (B) been pardoned or otherwise released from the
3 resulting disability to vote;

4 (5) is a resident of this state; and

5 (6) is a registered voter under this subtitle.

6 SECTION 5. Section 15.003(a), Election Code, is amended to
7 read as follows:

8 (a) On receipt of a voter registration certificate issued
9 under this subtitle [~~title~~], the person to whom the certificate is
10 issued must personally sign it in the appropriate space.

11 SECTION 6. Title 2, Election Code, is amended by adding
12 Subtitle B to read as follows:

13 SUBTITLE B. FEDERAL ELECTIONS

14 CHAPTER 21. GENERAL PROVISIONS

15 Sec. 21.001. DEFINITIONS. In this subtitle:

16 (1) "Federal ballot" means a ballot that only lists
17 elections and candidates for federal office.

18 (2) "State election" means an election that is not a
19 federal election.

20 Sec. 21.002. FEDERAL ELECTIONS SEPARATE. (a)

21 Notwithstanding other law, a federal election is a separate
22 election from any other election in this state.

23 (b) A federal election under this subtitle may not list on
24 the federal ballot any proposition or election for state or county
25 office.

26 (c) To the extent feasible, a federal election and a state
27 election shall be held separately and concurrently using the same

1 precincts and polling locations.

2 Sec. 21.003. RULES. (a) The secretary of state shall adopt
3 rules to enact this subtitle.

4 (b) The rules adopted under this section must reduce voter
5 disruption and confusion to the greatest extent possible, including
6 by using the same area in which voters are being accepted for voting
7 and the same voting stations for state and federal elections.

8 CHAPTER 22. VOTER REGISTRATION FOR FEDERAL ELECTIONS

9 Sec. 22.001. DEFINITION. In this chapter, "military
10 service voter" means:

11 (1) a member of the armed forces of the United States;

12 (2) a member of the merchant marine of the United
13 States;

14 (3) a member of the Texas National Guard;

15 (4) a member of the National Guard of another state
16 serving on active duty under an order of the president of the United
17 States;

18 (5) a member of a reserve component of the armed forces
19 of the United States serving on active duty under an order of the
20 president of the United States or activated on state orders; or

21 (6) a spouse or dependent of a member of a military
22 organization listed in Subdivisions (1) through (5).

23 Sec. 22.002. ELIGIBILITY TO VOTE IN FEDERAL ELECTIONS. To
24 be eligible to vote in a federal election in this state, a person
25 must:

26 (1) be a qualified voter as defined by Section [11.002](#)
27 on the day the person offers to vote; or

1 (2) meet all requirements for voter eligibility under
2 federal law and:

3 (A) meet all of the requirements to be a
4 qualified voter under Section 11.002 except the requirement under
5 Section 11.002(a)(6) that the person be a registered voter under
6 Subtitle A, and be:

7 (i) a military service voter; or

8 (ii) domiciled in this state but
9 temporarily living outside the territorial limits of the United
10 States and the District of Columbia; or

11 (B) be unable to complete the registration
12 requirements under Subtitle A.

13 Sec. 22.003. REGISTRATION FOR FEDERAL ELECTIONS. (a) The
14 secretary of state shall create and maintain a procedure by which a
15 person eligible under Section 22.002 may submit an application to
16 register to vote under this subtitle. The procedure under this
17 section must comply with all federal laws for voter registration.

18 (b) A person who submits an application for registration
19 under Chapter 13 that does not comply with all requirements under
20 Subtitle A but does comply with all requirements under federal law
21 shall be registered to vote under this subtitle.

22 (c) A person registered to vote under Subsection (b) who
23 submits an application for registration under Chapter 13 that is
24 accepted becomes registered to vote under Subtitle A.

25 CHAPTER 23. CONDUCT OF FEDERAL ELECTIONS

26 Sec. 23.001. CREATION OF FEDERAL BALLOT. The authority
27 preparing a ballot for a concurrent federal and state election

1 shall prepare a separate federal ballot for voters registered under
2 this subtitle.

3 Sec. 23.002. BALLOT RECEIVED BY VOTER IN FEDERAL ELECTION.

4 (a) A voter registered to vote under Subtitle A may vote a full
5 ballot containing propositions and candidates for office in state
6 and federal elections.

7 (b) A voter registered to vote under this subtitle may only
8 vote a federal ballot.

9 Sec. 23.003. OTHER CONDUCT. (a) Voting, tabulation, and
10 reporting procedures for a state election shall be conducted under
11 the provisions of this code.

12 (b) To the extent possible, voting, tabulation, and
13 reporting procedures for a federal election shall be conducted
14 under the provisions of this code.

15 (c) To the extent that federal law conflicts with a
16 provision of this code, voting, tabulation, and reporting
17 procedures for a federal election shall be conducted under the
18 provisions of the applicable federal law.

19 SECTION 7. Subchapter A, Chapter 41, Election Code, is
20 amended by adding Section 41.003 to read as follows:

21 Sec. 41.003. GENERAL ELECTION FOR FEDERAL OFFICERS. (a)
22 The general election for federal officers shall be held on the first
23 Tuesday after the first Monday in November in even-numbered years.

24 (b) To the extent feasible, the general election for federal
25 officers shall be held concurrently with the general election for
26 state and county officers.

27 SECTION 8. The heading to Section 41.007, Election Code, is

1 amended to read as follows:

2 Sec. 41.007. PRIMARY ELECTIONS FOR STATE AND COUNTY
3 OFFICERS.

4 SECTION 9. Sections 41.007(a) and (d), Election Code, are
5 amended to read as follows:

6 (a) The general primary election date for state and county
7 officers is the first Tuesday in March in each even-numbered year.

8 (d) No [~~other~~] election other than a primary election for
9 federal officers may be held on the date of a primary election.

10 SECTION 10. Subchapter A, Chapter 41, Election Code, is
11 amended by adding Section 41.0075 to read as follows:

12 Sec. 41.0075. PRIMARY ELECTIONS FOR FEDERAL OFFICERS. (a)
13 The primary election date for federal officers is the first Tuesday
14 in March in each even-numbered year.

15 (b) The runoff primary election date for federal officers is
16 the fourth Tuesday in May following the primary election for
17 federal officers.

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

20 (d) To the extent feasible, the primary election for federal
21 officers shall be held concurrently with the primary election for
22 state and county officers.

23 SECTION 11. Section 42.002(a), Election Code, is amended to
24 read as follows:

25 (a) The county election precincts are the election
26 precincts for the following elections:

27 (1) the general election for state and county

1 officers;

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

3 (3) a primary election;

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

7 (5) a federal election; and

8 (6) as provided by Section 42.0621, any other election
9 held by a political subdivision on a uniform election date.

10 SECTION 12. Section 67.010(a), Election Code, is amended to
11 read as follows:

12 (a) The county election returns for an election for a
13 statewide office other than governor or lieutenant governor, a
14 statewide measure, a district office, or a federal office
15 [~~president and vice-president of the United States~~] shall be
16 canvassed by the governor.

17 SECTION 13. Section 84.014, Election Code, is amended to
18 read as follows:

19 Sec. 84.014. ACTION BY EARLY VOTING CLERK ON CERTAIN
20 APPLICATIONS. If an applicant provides a date of birth, driver's
21 license number, or social security number on the applicant's
22 application for an early voting ballot to be voted by mail that is
23 different from or in addition to the information maintained by the
24 voter registrar in accordance with Subtitle A, Title 2, the early
25 voting clerk shall notify the voter registrar. The voter registrar
26 shall update the voter's record with the information provided by
27 the applicant.

1 SECTION 14. Section 101.052, Election Code, is amended by
2 amending Subsections (e), (f), and (j) and adding Subsection (n) to
3 read as follows:

4 (e) An applicant who otherwise complies with applicable
5 requirements is entitled to receive a full ballot to be voted by
6 mail under this chapter if:

7 (1) the applicant submits a federal postcard
8 application to the early voting clerk on or before the 20th day
9 before election day; and

10 (2) the application contains the information that is
11 required for registration under Subtitle A, Title 2.

12 (f) The applicant is entitled to receive only a federal
13 ballot to be voted by mail under Chapter 114 if:

14 (1) the applicant submits the federal postcard
15 application to the early voting clerk after the date provided by
16 Subsection (e)(1) and before the deadline for submitting a regular
17 application for a ballot to be voted by mail; and

18 (2) the application contains the information that is
19 required for registration under Subtitle A, Title 2.

20 (j) If the early voting clerk determines that an application
21 that is submitted before the time prescribed by Subsection (e)(1)
22 does not contain the information that is required for registration
23 under Subtitle A, Title 2, the clerk shall notify the applicant of
24 that fact. If the applicant has provided a telephone number or an
25 address for receiving mail over the Internet, the clerk shall
26 notify the applicant by that medium.

27 (n) A federal postcard application that does not meet the

1 requirements of Subtitle A, Title 2, may still constitute
2 registration for federal elections if the federal postcard
3 application meets the requirements of Subtitle B, Title 2.

4 SECTION 15. Section 101.053(b), Election Code, is amended
5 to read as follows:

6 (b) If an applicant provides a date of birth, driver's
7 license number, or social security number on the applicant's
8 federal postcard application that is different from or in addition
9 to the information maintained by the voter registrar in accordance
10 with Subtitle A, Title 2, the early voting clerk shall notify the
11 voter registrar. The voter registrar shall update the voter's
12 record with the information provided by the applicant.

13 SECTION 16. Section 101.055, Election Code, is amended by
14 amending Subsection (a) and adding Subsection (a-1) to read as
15 follows:

16 (a) The submission of a federal postcard application that
17 complies with the ~~[applicable]~~ requirements of Subtitle A, Title 2,
18 by an unregistered applicant constitutes registration by the
19 applicant:

20 (1) for the purpose of voting in the election for state
21 and county officers for which a ballot is requested; and

22 (2) under Subtitle A, Title 2, if the federal postcard
23 application complies with the requirements under that subtitle,
24 unless the person indicates on the application that the person is
25 residing outside the United States indefinitely.

26 (a-1) The submission of a federal postcard application that
27 complies with the requirements of Subtitle B, Title 2, by an

1 unregistered applicant constitutes registration by the applicant:

2 (1) for the purpose of voting in the election for
3 federal officers for which a ballot is requested; and

4 (2) under Subtitle B, Title 2, if the federal postcard
5 application complies with the requirements under that subtitle,
6 unless the person indicates on the application that the person is
7 residing outside the United States indefinitely.

8 SECTION 17. Section 142.005, Election Code, is amended to
9 read as follows:

10 Sec. 142.005. AUTHORITY WITH WHOM APPLICATION FILED. An
11 application for a place on the ballot must be filed with:

12 (1) the secretary of state, for a federal, statewide,
13 or district office; or

14 (2) the county judge, for a county or precinct office.

15 SECTION 18. Section 145.033, Election Code, is amended to
16 read as follows:

17 Sec. 145.033. AUTHORITY WITH WHOM WITHDRAWAL REQUEST FILED.

18 A candidate must file a withdrawal request with:

19 (1) the secretary of state, for a federal, statewide,
20 or district office; or

21 (2) the authority responsible for having the official
22 ballot prepared, for a county or precinct office.

23 SECTION 19. Section 145.037(d), Election Code, is amended
24 to read as follows:

25 (d) The chair must deliver the certification to:

26 (1) the secretary of state, for a federal, statewide,
27 or district office; or

1 (2) the authority responsible for having the official
2 ballot prepared, for a county or precinct office.

3 SECTION 20. Section 146.024, Election Code, is amended to
4 read as follows:

5 Sec. 146.024. AUTHORITY WITH WHOM DECLARATION FILED. A
6 declaration of write-in candidacy must be filed with:

7 (1) the secretary of state, for a federal, statewide,
8 or district office; or

9 (2) the county judge, for a county or precinct office.

10 SECTION 21. Section 161.008(a), Election Code, is amended
11 to read as follows:

12 (a) Except as provided by Subsection (c), the secretary of
13 state shall certify in writing for placement on the general
14 election ballot the name of each candidate nominated at a primary
15 election or convention of a political party for a federal,
16 statewide, or district office.

17 SECTION 22. Section 163.006(d), Election Code, is amended
18 to read as follows:

19 (d) Before January 15 of each year in which political
20 parties hold precinct conventions under this title, the secretary
21 of state shall deliver written notice of the requirements of this
22 section to the state chair of each party that had a nominee for a
23 federal, statewide, or district office on the most recent general
24 election ballot.

25 SECTION 23. Section 172.059(b), Election Code, is amended
26 to read as follows:

27 (b) A withdrawal request for the runoff primary must be

1 filed with the state chair, for a federal, statewide, or district
2 office, or with the county chair, for a county or precinct office.

3 SECTION 24. Section 172.121(a), Election Code, is amended
4 to read as follows:

5 (a) The state chair shall certify on the secretary of
6 state's website for placement on the runoff primary election ballot
7 the name of each general primary candidate for a federal,
8 statewide, or district office who is to be a candidate in the
9 runoff.

10 SECTION 25. Section 172.122(a), Election Code, is amended
11 to read as follows:

12 (a) The state chair shall certify by posting on the
13 secretary of state's website the name and address of each primary
14 candidate who is nominated for a federal, statewide, or district
15 office. The state chair shall execute and file digitally with the
16 secretary of state an affidavit certifying that the returns posted
17 on the secretary of state's website are the correct and complete
18 returns. The secretary of state shall adopt by rule a process to
19 allow the chair to submit the affidavit digitally.

20 SECTION 26. Section 173.063, Election Code, is amended to
21 read as follows:

22 Sec. 173.063. FEE RETAINED BY STATE CHAIR. The state chair
23 shall deposit in the state primary fund each filing fee
24 accompanying an application for a place on the ballot filed with the
25 state chair:

- 26 (1) for a federal office;
27 (1-a) for a statewide office; or

1 (2) for a district office if the application is filed
2 after the regular filing deadline.

3 SECTION 27. Section [181.0311\(a\)](#), Election Code, as
4 effective September 1, 2021, is amended to read as follows:

5 (a) In addition to any other requirements, to be considered
6 for nomination by convention, a candidate must:

7 (1) pay a filing fee to the secretary of state for a
8 federal, statewide, or district office or the county judge for a
9 county or precinct office; or

10 (2) submit to the secretary of state for a federal,
11 statewide, or district office or the county judge for a county or
12 precinct office a petition in lieu of a filing fee that satisfies
13 the requirements prescribed by Subsection (e) and Section [141.062](#).

14 SECTION 28. Section [181.032\(a\)](#), Election Code, is amended
15 to read as follows:

16 (a) An application for nomination by a convention must be
17 filed with:

18 (1) the state chair, for a federal, statewide, or
19 district office; or

20 (2) the county chair, for a county or precinct office.

21 SECTION 29. Section [181.068\(b\)](#), Election Code, is amended
22 to read as follows:

23 (b) Not later than the 20th day after the date of the
24 convention making the nomination, the presiding officer shall
25 deliver the certification to:

26 (1) the authority responsible for having the official
27 general election ballot prepared in the county, for certification

1 of a county or precinct office; or

2 (2) the secretary of state, for certification of a
3 federal, statewide, or district office.

4 SECTION 30. Sections 231.008(b) and (c), Election Code, are
5 amended to read as follows:

6 (b) If the judgment in a contest for an office affects the
7 preparation of the ballot for a succeeding election, the clerk
8 shall deliver a copy to the authority responsible for having the
9 official ballot prepared or, in the case of a federal, statewide, or
10 district office, to the authority responsible for certifying the
11 names of the candidates for placement on the ballot.

12 (c) If the judgment orders that a new general or special
13 election be held, the clerk shall deliver a copy to the authority
14 responsible for ordering the election. If the judgment orders a new
15 primary election, the clerk shall deliver a copy to the state chair
16 of the appropriate political party, in the case of a federal,
17 statewide, or district office, or to the county chair, in the case
18 of a county or precinct office.

19 SECTION 31. Section 232.013(d), Election Code, is amended
20 to read as follows:

21 (d) If the contested election is a primary, the district
22 clerk shall deliver a certified copy of the order setting the date
23 of the runoff to the state chair of the political party in the case
24 of a federal, statewide, or district office or to the county chair
25 in the case of a county or precinct office.

26 SECTION 32. Section 232.048(c), Election Code, is amended
27 to read as follows:

1 (c) The candidate receiving the most votes in a new election
2 ordered by a court in a primary election contest is the political
3 party's nominee, regardless of whether the candidate receives a
4 majority vote, if the date of the final canvass of the court-ordered
5 primary is on or after:

6 (1) the 85th day before the date of the succeeding
7 general election in the case of a federal, statewide, or district
8 office; or

9 (2) the 75th day before the date of the succeeding
10 general election in the case of a county or precinct office.

11 SECTION 33. Section 252.005, Election Code, is amended to
12 read as follows:

13 Sec. 252.005. AUTHORITY WITH WHOM APPOINTMENT FILED:
14 CANDIDATE. An individual must file a campaign treasurer appointment
15 for the individual's own candidacy with:

16 (1) the commission, if the appointment is made for
17 candidacy for:

18 (A) a federal office;

19 (A-1) a statewide office;

20 (B) a district office filled by voters of more
21 than one county;

22 (C) a judicial district office filled by voters
23 of only one county;

24 (D) state senator;

25 (E) state representative; or

26 (F) the State Board of Education;

27 (2) the county clerk, if the appointment is made for

1 candidacy for a county office, a precinct office, or a district
2 office other than one included in Subdivision (1);

3 (3) the clerk or secretary of the governing body of the
4 political subdivision or, if the political subdivision has no clerk
5 or secretary, with the governing body's presiding officer, if the
6 appointment is made for candidacy for an office of a political
7 subdivision other than a county;

8 (4) the county clerk if:

9 (A) the appointment is made for candidacy for an
10 office of a political subdivision other than a county;

11 (B) the governing body for the political
12 subdivision has not been formed; and

13 (C) no boundary of the political subdivision
14 crosses a boundary of the county; or

15 (5) the commission if:

16 (A) the appointment is made for candidacy for an
17 office of a political subdivision other than a county;

18 (B) the governing body for the political
19 subdivision has not been formed; and

20 (C) the political subdivision is situated in more
21 than one county.

22 SECTION 34. Section 41.007(c), Election Code, is repealed.

23 SECTION 35. (a) Except as otherwise provided by this
24 section, this Act takes effect on the 91st day after the last day of
25 the legislative session.

26 (b) This Act takes effect only if the United States Congress
27 enacts legislation that becomes law that preempts state law

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1 regarding the registration of voters or conduct of elections. If
2 the United States Congress does not enact legislation that becomes
3 law described by this subsection, this Act has no effect.