87R10427 MLH-F

By:  González of Dallas H.B. No. 4427

A BILL TO BE ENTITLED

AN ACT

relating to the powers and duties of the committees and officers of certain political parties regarding the conduct of primary elections.

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

SECTION 1.  Section 31.091(3), Election Code, is amended to read as follows:

(3)  "Contracting authority" means the governing body of a political subdivision or the county chair [~~executive committee~~] of a political party that enters into a contract under this subchapter.

SECTION 2.  Sections 31.093(c) and (e), Election Code, are amended to read as follows:

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

(e)  A county election officer must offer to contract on the same terms with the county chair [~~executive committee~~] of each political party holding a primary election in the county.

SECTION 3.  Section 31.099(b), Election Code, is amended to read as follows:

(b)  The county election officer shall file a copy of the secretary of state's approval with each copy of a contract with the county chair [~~executive committee~~] of a political party if the approval is in a separate document.

SECTION 4.  Section 32.093, Election Code, is amended to read as follows:

Sec. 32.093.  AUTHORITY FIXING COMPENSATION. The compensation of election judges and clerks shall be fixed by the following authority:

(1)  for an election ordered by the governor or a county authority, the commissioners court;

(2)  for an election ordered by an authority of a political subdivision other than a county, the political subdivision's governing body; and

(3)  for a primary election, the county chair [~~executive committee~~] of the political party holding the primary.

SECTION 5.  Section 32.094, Election Code, is amended by amending Subsections (a) and (e) and adding Subsection (f) to read as follows:

(a)  After each election, each presiding judge serving in the election shall prepare and sign[~~, in duplicate,~~] a statement containing the following information:

(1)  the name and address of the presiding judge and each clerk who served under the judge;

(2)  the number of hours that each election officer worked at the polling place or at another location under Section 62.014(c), excluding time for which payment may not be made; and

(3)  the name of the election officer who delivered the election records, keys, and unused supplies, and, if more than one officer, the name of and the amount of compensation allocated to each officer.

(e)  The original compensation statement shall be used for making payment for the services. The general custodian of election records shall preserve an electronic copy of the statement [~~the duplicate~~] for the period for preserving the precinct election records. If the presiding judge provides [~~delivers~~] the statement to an authority other than the general custodian of election records, the authority receiving the statement shall provide [~~deliver~~] the statement [~~duplicate~~] to the general custodian not later than the third day after the date of its receipt.

(f)  The secretary of state, or a county, may develop and implement an electronic system for a presiding judge to submit the information required under this section to the appropriate authority. The secretary of state may prescribe rules regarding the development and implementation of a system under this subsection to ensure compatibility with any other system developed and implemented under this section.

SECTION 6.  Section 32.111(a), Election Code, is amended to read as follows:

(a)  The secretary of state shall:

(1)  adopt standards of training in election law and procedure for presiding or alternate election judges;

(2)  develop materials for a standardized curriculum for that training; and

(3)  distribute the materials as necessary to the governing bodies of political subdivisions that hold elections and to each county chair [~~executive committee~~] of a political party that holds a primary election.

SECTION 7.  Sections 32.113(a) and (b), Election Code, are amended to read as follows:

(a)  The governing body of a political subdivision other than a county may, and the county chair [~~executive committee~~] of a political party shall, provide training for its election officers using the standardized training program and materials developed and provided by the secretary of state under Section 32.111.

(b)  A political subdivision or county chair [~~executive committee~~] may conduct its training independently or jointly with other entities.

SECTION 8.  Section 32.115, Election Code, is amended to read as follows:

Sec. 32.115.  SECRETARY OF STATE TO ASSIST IN TRAINING. On request of a county chair [~~executive committee~~] or a county clerk, as appropriate, the secretary of state shall schedule and provide assistance for the training of election judges and clerks under Section 32.113 or 32.114. The secretary may provide similar training assistance to other political subdivisions.

SECTION 9.  Section 42.0051(a), Election Code, is amended to read as follows:

(a)  If changes in county election precinct boundaries to give effect to a redistricting plan result in county election precincts with a number of registered voters less than 500, a commissioners court for a general or special election, or for a primary election the county chair [~~executive committee~~] of a political party conducting a primary election, may combine county election precincts notwithstanding Section 42.005 to avoid unreasonable expenditures for election equipment, supplies, and personnel.

SECTION 10.  Section 42.009, Election Code, is amended to read as follows:

Sec. 42.009.  CONSOLIDATING PRECINCTS IN PRIMARY ELECTION. The county chair [~~executive committee~~] of a political party holding a primary election may order two or more county election precincts consolidated into a single precinct if the polling place is located so it will adequately serve the voters of the consolidated precinct.

SECTION 11.  Section 43.003, Election Code, is amended to read as follows:

Sec. 43.003.  DESIGNATION OF LOCATION: PRIMARY ELECTION. The county chair of a political party holding a primary election shall designate the location of the polling place for each election precinct in the primary [~~unless the precinct is one that is consolidated. In that case, the county executive committee shall designate the location~~].

SECTION 12.  Section 43.007(a), Election Code, is amended to read as follows:

(a)  The secretary of state shall implement a program to allow each commissioners court participating in the program to eliminate county election precinct polling places and establish countywide polling places for:

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

(2)  each election held on the uniform election date in May and any resulting runoff;

(3)  each election on a proposed constitutional amendment;

(4)  each primary election and runoff primary election if:

(A)  the county chair [~~or county executive committee~~] of each political party participating in a joint primary election under Section 172.126 agrees to the use of countywide polling places; or

(B)  the county chair [~~or county executive committee~~] of each political party required to nominate candidates by primary election agrees to use the same countywide polling places; and

(5)  each election of a political subdivision located in the county that is held jointly with an election described by Subdivision (1), (2), (3), or (4).

SECTION 13.  Section 51.003, Election Code, is amended to read as follows:

Sec. 51.003.  PROCURING AND ALLOCATING SUPPLIES. Except as otherwise provided by law, the following authority shall procure the election supplies necessary to conduct an election and shall determine the quantity of the various types of supplies to be provided to each precinct polling place and early voting polling place:

(1)  for an election ordered by the governor or a county authority, the county clerk, subject to the approval of the county election board;

(2)  for a primary election, the county chair of the political party holding the primary [~~, subject to the approval of the party's county executive committee~~];

(3)  for an election ordered by a city authority, the city secretary; and

(4)  for an election ordered by an authority of a political subdivision other than a county or city, the secretary of the subdivision's governing body or, if the governing body has no secretary, the governing body's presiding officer.

SECTION 14.  Section 123.033, Election Code, is amended to read as follows:

Sec. 123.033.  ACQUISITION OF EQUIPMENT BY POLITICAL PARTY FOR PRIMARY. (a) A political party's county chair [~~executive committee~~] that desires to use a voting system for a primary election must acquire the equipment necessary for operating the voting system as provided by this section.

(b)  The county chair [~~executive committee~~] may contract to lease the equipment from the county. If the equipment desired is not available from the county, the chair [~~county executive committee~~] may contract to lease it from any other source.

(c)  If the county chair [~~executive committee~~] desires to lease equipment owned by the county served by the chair [~~committee~~], the county shall lease the equipment to the chair [~~committee~~] under the terms agreed to by the parties, except that the county's duty to lease the equipment is subject to reasonable restrictions and conditions imposed by the commissioners court to:

(1)  ensure availability of the equipment in elections for which the commissioners court adopted the voting system; and

(2)  protect the equipment from misuse or damage.

(d)  A county is not required to provide a political party's county chair [~~executive committee~~] with equipment for use in an election precinct in which fewer than 100 votes were cast in the political party's most recent general or runoff primary.

(e)  The maximum amount that may be charged for leasing equipment to a county chair [~~executive committee~~] for a general or runoff primary is:

(1)  $5 for each unit of electronic voting system equipment installed at a polling place; and

(2)  $5 for each unit of other equipment not specified by this subsection.

(f)  In addition to the amount a county may charge for leasing its equipment under Subsection (e), a county may charge a county chair [~~executive committee~~] for the actual expenses incurred by the county in:

(1)  transporting the equipment to and from the polling places;

(2)  preparing the equipment for use in the primary election; and

(3)  operating a central counting station for the primary election.

SECTION 15.  Section 141.031(a), Election Code, is amended to read as follows:

(a)  A candidate's application for a place on the ballot that is required by this code must:

(1)  be in writing;

(2)  be signed and sworn to before a person authorized to administer oaths in this state by the candidate and indicate the date that the candidate swears to the application;

(3)  be timely filed with the appropriate authority; [~~and~~]

(4)  if the candidate is applying to seek office as a member of a political party, contain the signature of the party chair; and

(5)  include:

(A)  the candidate's name;

(B)  the candidate's occupation;

(C)  the office sought, including any place number or other distinguishing number;

(D)  an indication of whether the office sought is to be filled for a full or unexpired term if the office sought and another office to be voted on have the same title but do not have place numbers or other distinguishing numbers;

(E)  a statement that the candidate is a United States citizen;

(F)  a statement that the candidate has not been determined by a final judgment of a court exercising probate jurisdiction to be:

(i)  totally mentally incapacitated; or

(ii)  partially mentally incapacitated without the right to vote;

(G)  a statement that the candidate has not been finally convicted of a felony from which the candidate has not been pardoned or otherwise released from the resulting disabilities;

(H)  the candidate's date of birth;

(I)  the candidate's residence address or, if the residence has no address, the address at which the candidate receives mail and a concise description of the location of the candidate's residence;

(J)  the candidate's length of continuous residence in the state and in the territory from which the office sought is elected as of the date the candidate swears to the application;

(K)  the statement: "I, \_\_\_\_\_\_\_\_\_\_, of \_\_\_\_\_\_\_\_\_\_ County, Texas, being a candidate for the office of \_\_\_\_\_\_\_\_\_\_, swear that I will support and defend the constitution and laws of the United States and of the State of Texas";

(L)  a statement that the candidate is aware of the nepotism law, Chapter 573, Government Code; and

(M)  a public mailing address at which the candidate receives correspondence relating to the candidate's campaign, if available, and an electronic mail address at which the candidate receives correspondence relating to the candidate's campaign, if available.

SECTION 16.  Subchapter B, Chapter 171, Election Code, is amended by adding Section 171.030 to read as follows:

Sec. 171.030.  STATE CHAIR ACTING AS COUNTY CHAIR. Notwithstanding any other law, if a political party holding a primary election in a county does not have a county chair for that county or if the county chair for that county has failed to perform a statutory duty:

(1)  the state chair of the political party has the powers, duties, and functions of a county chair under Titles 3, 4, 5, and 8 for that county; and

(2)  a governmental entity, election officer, or other person required to provide notice, documents, or materials to a county chair for that county under Titles 3, 4, 5, and 8 shall provide the notice, documents, or materials to the state chair of the political party if the county does not have a county chair or in connection with any duty the county chair has failed to perform.

SECTION 17.  Section 172.081(a), Election Code, is amended to read as follows:

(a)  A [~~Except as provided by Subsection (b), a~~] primary committee may be [~~is~~] established in each county having a county executive committee. If created, the [~~The~~] primary committee consists of:

(1)  the county chair; and

(2)  four other members of the county executive committee, appointed by the county chair subject to the executive committee's approval.

SECTION 18.  The heading to Section 172.126, Election Code, is amended to read as follows:

Sec. 172.126.  JOINT PRIMARIES [~~AUTHORIZED~~].

SECTION 19.  Section 172.126, Election Code, is amended by amending Subsection (a) and adding Subsections (a-1), (a-2), (h-1), (h-2), (j), and (k) to read as follows:

(a)  Except as otherwise provided by Subsection (a-1), the [~~The~~] primary elections in a county shall [~~may~~] be conducted jointly at the regular polling places designated for the general election for state and county officers. The county clerk shall supervise the overall conduct of the joint primary elections. This section applies to the conduct of joint primary elections notwithstanding and in addition to other applicable provisions of this code. [~~The decision to conduct a joint general primary election or runoff primary election, as applicable, must be made by majority vote of the full membership of the commissioners court and with the unanimous approval of the county clerk and the county chair of each political party required to nominate candidates by primary election.~~]

(a-1)  A county chair may elect for the political party to not participate in a joint primary under Subsection (a) by providing notice under Subsection (j). A county chair may elect to perform any requirement under this section in lieu of the county clerk by providing similar notice. The county clerk shall perform all duties required under this section for each political party for which the county chair has not submitted notice under this section.

(a-2)  The county clerk shall receive direct repayment of an actual expense incurred in connection with a joint election under Section 173.0832.

(h-1)  Except as provided by Subsection (a-1), in a joint primary election held under this section, the county clerk shall:

(1)  obtain voter registration lists from the voter registrar of the county;

(2)  provide training and compensation of election clerks and judges;

(3)  provide notice under Section 4.007;

(4)  designate the location of the election day polling places for the general primary election and any resulting runoff election;

(5)  procure and distribute all polling place supplies; and

(6)  perform duties relating to voting system and electronic pollbook equipment, including tabulation of election results.

(h-2)  In a joint primary or resulting runoff election under this section, the party shall:

(1)  provide the list of names of the election judges and clerks required under Subsection (c);

(2)  participate in the appointment of the counting station manager, the tabulation supervisor, and the assistants to the tabulation supervisor; and

(3)  as soon as practicable after the filing deadline, or, for a runoff election, after the local canvass:

(A)  direct the county clerk to the candidate filing system on the secretary of state's Internet website to find the candidates' names and offices as they are to appear on the ballot; and

(B)  submit a proposition that is to appear on the ballot under Section 172.087 to the county clerk.

(j)  A county chair may make the election under Subsection (a-1) if the county chair gives notice in writing to the county clerk and the secretary of state not later than the first day on which a candidate may file an application for placement on a ballot that:

(1)  includes a certification that the county executive committee has a county primary fund as required by Section 173.031;

(2)  includes a list of the duties under Subsection (h-1) that the county chair still wishes the county clerk to perform;

(3)  states whether the county executive committee will compensate election workers; and

(4)  includes a certification that the cost of the party's primary election will not exceed an amount equivalent to the projected cost of the joint primary election conducted by the county clerk divided by the number of parties participating.

(k)  Any cost incurred by the party in holding the primary election in excess of the amount certified under Subsection (j)(4) shall be paid from party funds, unless the secretary of state approves the cost in advance.

SECTION 20.  Section 173.031, Election Code, is amended by amending Subsection (a) and adding Subsections (c), (d), (e), and (f) to read as follows:

(a)  A county primary fund is created for each county executive committee of a political party holding a primary election if required by the state executive committee of the political party.

(c)  A state executive committee shall require a county executive committee to have a county primary fund under Subsection (a) if the county executive committee does not participate in a joint primary under Section 172.126 or the county will otherwise expend funds for administrative purposes.

(d)  A state executive committee may by rule allow a county executive committee that does not have a primary fund to accept filing fees payable to the state party primary fund. The county chair shall remit these funds to the state chair not later than five days after the funds are accepted. If the state chair discovers that a check made payable to the state party primary fund may not be deposited due to insufficient funds, the state chair shall notify the county chair, and the county chair shall notify the candidate that the candidate's application for a place on the ballot has been rejected.

(e)  The state party shall account for each filing fee accepted under Subsection (d) by listing in state party records:

(1)  the county;

(2)  the candidate's name;

(3)  the office sought; and

(4)  the amount of the accepted fee.

(f)  The state party shall remit the total of the funds accepted under Subsection (d) to the secretary of state within 10 days of the completion of the filing period.

SECTION 21.  Section 173.0341(c), Election Code, is amended to read as follows:

(c)  If the state chair acts as the fiscal agent for a county party in accordance with an agreement under this section:

(1)  the state chair shall deliver the completed agreement to the secretary of state;

(2)  any filing fee received by the county party under Subchapter C must be made payable to the state party for deposit in the state primary fund not later than five days after receipt of the filing fee;

(3)  the county chair [~~or county executive committee~~] shall make a request in accordance with Section 31.093 to enter into a contract with the county elections administrator to conduct primary elections in the county; and

(4)  Section 173.031 does not apply to the county party.

SECTION 22.  Section 173.083, Election Code, is amended to read as follows:

Sec. 173.083.  STATE PAYMENT OF ESTIMATED PRIMARY EXPENSES. (a) The amount of estimated primary election expenses payable with state funds under this section is equal to:

(1)  for a general primary election:

(A)  if the county chair retains candidate filing fees collected under Section 172.021, the difference obtained by subtracting the sum of the filing fees and contributions reported in the statement of estimated primary election expenses from the total amount of estimated general primary expenses approved by the secretary of state under Section 173.082; and

(B)  if the county chair elects to forward candidate filing fees collected under Section 172.021 pursuant to Section 173.031(d), the difference obtained by subtracting the contributions reported in the statement of estimated primary election expenses from the total amount of estimated general primary expenses approved by the secretary of state under Section 173.082; and

(2)  for a runoff primary election, the total amount of estimated runoff primary expenses approved by the secretary.

(b)  State payment of the estimated primary election expenses shall be made in installments as follows:

(1)  the initial installment for the expenses of a general primary is equal to the sum of three-fourths, or three-fifths if the secretary of state determines that figure to be more efficient, of the amount of estimated general primary expenses not including estimates of election staff salaries payable with state funds and the total estimated amount of election staff salaries;

(2)  the initial installment for the expenses of a runoff primary is equal to the sum of three-fourths, or three-fifths if the secretary of state determines that figure to be more efficient, of the amount of estimated runoff primary expenses not including estimates of election staff salaries payable with state funds and the total estimated amount of election staff salaries; and

(3)  the final installment is equal to the difference obtained by subtracting the total of the installments paid under Subdivisions (1) and (2) from the total of the actual general and runoff primary election expenses payable with state funds.

(c)  After determining the amount of estimated primary expenses to approve under Section 173.082 for a general or runoff primary, the secretary of state shall calculate the amount of the installment payable under Subsection (b)(1) or (2), as applicable. The secretary shall then prepare and deliver to the comptroller of public accounts a certified statement indicating the amount of the installment, the total amount of estimated general or runoff primary expenses payable with state funds, and the name of the county election officer, county chair, or state chair who submitted the statement of estimated primary election expenses.

(d)  The final installment may not be paid until a report is filed in compliance with Section 173.084 and, in the case of a county chair, a report is also filed in compliance with Section 172.124. On the filing of the report, the secretary of state shall calculate the amount of the final installment and prepare and deliver to the comptroller of public accounts a certified statement indicating that amount and the appropriate county election officer, county chair, or state chair's name.

(e)  On receipt of a certified statement under Subsection (c) or (d), the comptroller of public accounts shall issue a warrant or direct deposit in the certified amount of the installment payable to the county election officer, county chair, or state chair identified by the statement.

SECTION 23.  This Act takes effect September 1, 2021.