

By: Meza

H.B. No. 117

A BILL TO BE ENTITLED

AN ACT

relating to preferential voting in a primary election.

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

SECTION 1. Section 18.069, Election Code, is amended to read as follows:

Sec. 18.069. VOTING HISTORY. Not later than the 30th day after the date of the primary~~[, runoff primary,]~~ or general election or any special election ordered by the governor, the registrar shall electronically submit to the secretary of state the record of each voter participating in the election. The record must include a notation of whether the voter voted on election day, voted early by personal appearance, voted early by mail under Chapter 86, or voted early by mail under Chapter 101.

SECTION 2. Section 31.093(c), Election Code, is 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 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.

SECTION 3. Section 32.091(c), Election Code, is amended to read as follows:

1 (c) For a primary [~~or runoff primary~~] election, the minimum  
2 hourly rate is the greater of the maximum rate provided by  
3 Subsection (a) or, if the election officer attended a training  
4 program as provided by Subchapter F, §7.

5 SECTION 4. Section 41.001(c), Election Code, is amended to  
6 read as follows:

7 (c) Except for an election under Subsection (a) or Section  
8 41.0011 or a runoff election following an election held under  
9 Subsection (a)(2), an election may not be held within 30 days before  
10 or after the date of the general election for state and county  
11 officers or the[~~r~~] general primary election[~~, or runoff primary~~  
12 ~~election~~].

13 SECTION 5. Section 43.007(a), Election Code, is amended to  
14 read as follows:

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

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

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

23 (3) each election on a proposed constitutional  
24 amendment;

25 (4) each primary election [~~and runoff primary~~  
26 ~~election~~] if:

27 (A) the county chair or county executive

1 committee of each political party participating in a joint primary  
2 election under Section 172.126 agrees to the use of countywide  
3 polling places; or

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

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

11 SECTION 6. Section 85.001(b), Election Code, is amended to  
12 read as follows:

13 (b) For a special runoff election for the office of state  
14 senator or state representative [~~or for a runoff primary election~~],  
15 the period begins on the 10th day before election day.

16 SECTION 7. Section 85.062(b), Election Code, is amended to  
17 read as follows:

18 (b) A polling place established under this section may be  
19 located, subject to Subsection (d), at any place in the territory  
20 served by the early voting clerk and may be located in any  
21 stationary structure as directed by the authority establishing the  
22 branch office. The polling place may be located in a movable  
23 structure in the general election for state and county officers or  
24 the[7] general primary election[~~, or runoff primary election~~].  
25 Ropes or other suitable objects may be used at the polling place to  
26 ensure compliance with Section 62.004. Persons who are not  
27 expressly permitted by law to be in a polling place shall be

1 excluded from the polling place to the extent practicable.

2 SECTION 8. Section 85.072(g), Election Code, is amended to  
3 read as follows:

4 (g) The early voting clerk shall compile the registers and  
5 electronically submit to the secretary of state a record of each  
6 voter participating in a primary, [~~a runoff primary,~~] a general  
7 election, or any special election ordered by the governor not later  
8 than the day the voter votes in person or the early voting clerk  
9 receives a ballot voted by mail.

10 SECTION 9. Sections 123.033(d) and (e), Election Code, are  
11 amended to read as follows:

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

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

19 (1) \$5 for each unit of electronic voting system  
20 equipment installed at a polling place; and

21 (2) \$5 for each unit of other equipment not specified  
22 by this subsection.

23 SECTION 10. Section 142.006(a), Election Code, is amended  
24 to read as follows:

25 (a) An application for a place on the ballot must be filed  
26 not later than 5 p.m. of the 30th day after [~~runoff~~] primary  
27 election day, except as provided by Section 202.007.

1 SECTION 11. Section 142.008, Election Code, is amended to  
2 read as follows:

3 Sec. 142.008. STATEMENT ON PETITION. The following  
4 statement must appear at the top of each page of a candidate's  
5 petition: "I know the purpose of this petition. I have not voted in  
6 the general primary election [~~or runoff primary election~~] of any  
7 political party that has nominated, at either election, a candidate  
8 for the office of (insert office title) for which (insert  
9 candidate's name) is a candidate."

10 SECTION 12. Section 142.009, Election Code, is amended to  
11 read as follows:

12 Sec. 142.009. PETITION TO BE CIRCULATED AFTER PRIMARY. A  
13 signature on a candidate's petition is invalid if the signer:

14 (1) signed the petition on or before general primary  
15 election day [~~or, if a runoff primary is held for the office sought~~  
16 ~~by the candidate, on or before runoff primary election day~~]; or

17 (2) voted in the general [~~or runoff~~] primary election  
18 of a political party that made a nomination, at either primary, for  
19 the office sought by the candidate.

20 SECTION 13. Section 162.004(c), Election Code, is amended  
21 to read as follows:

22 (c) Subject to Subsection (a-1), if a voter is accepted to  
23 vote without presenting a registration certificate, the presiding  
24 judge shall issue the voter an affiliation certificate. [~~The~~  
25 ~~certificate is not required to be issued to a voter in a runoff~~  
26 ~~primary unless the voter requests it.~~] The affiliation certificate  
27 may be combined with the notice provided under Section 172.1114. If

1 the combined form is used, an election officer is not required to  
2 comply with Subsection (b).

3 SECTION 14. Section 162.005, Election Code, is amended to  
4 read as follows:

5 Sec. 162.005. AFFILIATION PROCEDURE: EARLY VOTING BY MAIL.  
6 Subject to Section 162.004(a-1), the early voting clerk in a  
7 general primary election shall provide an affiliation certificate  
8 with each early voting or limited ballot to be voted by mail. [~~The~~  
9 ~~certificate is not required to be provided to an applicant for a~~  
10 ~~runoff primary ballot unless the applicant requests it.~~]

11 SECTION 15. Section 163.004(a), Election Code, is amended  
12 to read as follows:

13 (a) A political party's rules, including amendments to  
14 rules, governing or affecting its general [~~or runoff~~] primary  
15 elections, conventions held under this code, or nominees may be  
16 adopted only by:

17 (1) a state convention; or

18 (2) the state executive committee as:

19 (A) a temporary rule, if adoption before the next  
20 state convention is necessary; or

21 (B) a permanent rule, if the state executive  
22 committee is expressly required or authorized by statute to adopt a  
23 rule.

24 SECTION 16. Sections 171.022(a), (b), and (c), Election  
25 Code, are amended to read as follows:

26 (a) A county executive committee consists of:

27 (1) a county chair, who is the presiding officer,

1 elected at the general primary election [~~by majority vote of the~~  
2 ~~qualified voters of the county who vote in the primary on that~~  
3 ~~office~~] or appointed by the county executive committee as provided  
4 by this subchapter; and

5 (2) a precinct chair from each county election  
6 precinct, elected at the general primary [~~by majority vote of the~~  
7 ~~qualified voters of the precinct who vote in the primary on that~~  
8 ~~office~~], subject to Section 171.0221, or appointed by the county  
9 executive committee as provided by this subchapter.

10 (b) Except as provided by Subsection (d), if no candidate  
11 receives a majority of the votes, a preferential voting system is  
12 used [~~runoff~~] to determine the office [~~is conducted~~] in the same  
13 manner as a preferential voting system is used [~~runoff primary~~  
14 ~~election~~] to determine a nomination for public office under Section  
15 172.004. [~~The candidates to be in a runoff are determined in the~~  
16 ~~same manner as candidates in a runoff for a nomination.~~]

17 (c) Each committee member serves for a term of two years  
18 beginning the 20th day after [~~runoff~~] primary election day.

19 SECTION 17. Section 172.004, Election Code, is amended to  
20 read as follows:

21 Sec. 172.004. PREFERENTIAL VOTING IN [~~RUNOFF~~] PRIMARY  
22 ELECTION. (a) If no candidate for nomination to a particular  
23 office receives the vote required for nomination in the general  
24 primary election, the votes of the candidate receiving the fewest  
25 number of votes are reassigned to the candidate ranking next  
26 highest in the preference of a voter [~~a runoff primary election~~  
27 ~~shall be held to determine the nomination~~].

1           (b) If after reassigning votes under Subsection (a) no  
2 candidate receives a majority of the votes cast designating the  
3 modified highest favorable ranking, the reassignment of a vote to a  
4 voter's next most preferred candidate under Subsection (a)  
5 continues until one candidate receives a majority.

6           (c) If two or more candidates tie for the least number of  
7 votes before a reassignment of votes under Subsection (a) or (b),  
8 the tied candidates shall cast lots to determine which candidate's  
9 votes are reassigned.

10           (d) The secretary of state shall prescribe procedures to  
11 provide for an election to be held under this chapter using a  
12 preferential voting system. The system must allow a voter to rank  
13 each candidate through a numerical designation from the candidate  
14 the voter favors most to the candidate the voter favors least [The  
15 candidates in a runoff for a nomination shall be determined and a  
16 tie vote in a runoff resolved as provided by Subchapter B, Chapter  
17 2, for a runoff for an election to office].

18           SECTION 18. Section 172.061(a), Election Code, is amended  
19 to read as follows:

20           (a) Except for Section [~~Sections~~] 172.058(b), [~~172.059(c),~~  
21 ~~and 172.060(b),~~] this subchapter applies to a candidate for county  
22 chair or precinct chair.

23           SECTION 19. Section 172.117(a-2), Election Code, is amended  
24 to read as follows:

25           (a-2) The county chair shall update the notations after each  
26 general primary [~~and runoff primary~~] election, unless the secretary  
27 of state's Internet website automatically updates the notations



1 based on election returns. After any withdrawal or death of a  
2 candidate, and subsequent replacement of the candidate on the  
3 ballot, the chair shall notify the state chair, who shall update the  
4 notation on the website. All notations must be completed and  
5 accurate on the date prescribed by the secretary of state by rule to  
6 ensure that an authority printing general election ballots may rely  
7 on the information.

8 SECTION 20. Section 172.126(a), Election Code, is amended  
9 to read as follows:

10 (a) The primary elections in a county may be conducted  
11 jointly at the regular polling places designated for the general  
12 election for state and county officers. The county clerk shall  
13 supervise the overall conduct of the joint primary elections. This  
14 section applies to the conduct of joint primary elections  
15 notwithstanding and in addition to other applicable provisions of  
16 this code. The decision to conduct a joint general primary election  
17 ~~[or runoff primary election, as applicable,]~~ must be made by  
18 majority vote of the full membership of the commissioners court and  
19 with the unanimous approval of the county clerk and the county chair  
20 of each political party required to nominate candidates by primary  
21 election.

22 SECTION 21. Section 172.127(b), Election Code, is amended  
23 to read as follows:

24 (b) The presiding judge or alternate presiding judge for the  
25 precinct may post signs at a polling place for a primary election  
26 ~~[or a primary runoff election]~~ that:

27 (1) identify the names of, or symbols representing,

1 any political parties holding an election at the polling place; and

2 (2) do not refer to a candidate or measure on the  
3 ballot.

4 SECTION 22. Sections 173.083(a), (b), and (c), Election  
5 Code, are amended to read as follows:

6 (a) The amount of estimated primary election expenses  
7 payable with state funds under this section is equal to[+]

8 [~~(1) for a general primary election,~~] the difference  
9 obtained by subtracting the sum of the filing fees and  
10 contributions reported in the statement of estimated primary  
11 election expenses from the total amount of estimated general  
12 primary expenses approved by the secretary of state under Section  
13 173.082[~~, and~~

14 [~~(2) for a runoff primary election, the total amount~~  
15 ~~of estimated runoff primary expenses approved by the secretary].~~

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

18 (1) the initial installment [~~for the expenses of a~~  
19 ~~general primary]~~ is equal to three-fourths, or three-fifths if the  
20 secretary of state determines that figure to be more efficient, of  
21 the amount of estimated general primary expenses payable with state  
22 funds; and

23 (2) [~~the initial installment for the expenses of a~~  
24 ~~runoff primary is equal to three-fourths, or three-fifths if the~~  
25 ~~secretary of state determines that figure to be more efficient, of~~  
26 ~~the amount of estimated runoff primary expenses payable with state~~  
27 ~~funds, and~~

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

6           (c) After determining the amount of estimated primary  
7 expenses to approve under Section 173.082 for a general ~~[or runoff]~~  
8 primary, the secretary of state shall calculate the amount of the  
9 installment payable under Subsection (b)(1) ~~[or (2), as~~  
10 ~~applicable]~~. The secretary shall then prepare and deliver to the  
11 comptroller of public accounts a certified statement indicating the  
12 amount of the installment, the total amount of estimated general  
13 ~~[or runoff]~~ primary expenses payable with state funds, and the name  
14 of the county or state chair who submitted the statement of  
15 estimated primary election expenses.

16           SECTION 23. Sections 173.0833(a) and (b), Election Code,  
17 are amended to read as follows:

18           (a) This section applies to election services and materials  
19 provided by a vendor for use in a primary election ~~[or primary~~  
20 ~~runoff election]~~, including:

21                   (1) the printing of paper ballot material containing  
22 candidates' names used in a polling place;

23                   (2) the programming and testing of voting system  
24 equipment, including ballot layout, programming of equipment, and  
25 audio production;

26                   (3) site support or technical support other than the  
27 programming or testing of voting system equipment;

1           (4) nonballot election materials used in a precinct on  
2 election day, including election kits, required party stamps,  
3 distance signs, and required forms; and

4           (5) the rental of non-county-owned electronic voting  
5 system equipment, including media components.

6           (b) A vendor providing election services or materials to a  
7 county chair or a county election officer contracting with a county  
8 chair for a primary [~~or runoff primary~~] election shall directly  
9 bill the secretary of state for the cost of the services or  
10 materials used on election day for which state funding is available  
11 under this chapter.

12           SECTION 24. Sections [173.084](#)(a) and (b), Election Code, are  
13 amended to read as follows:

14           (a) Regardless of whether state funds are requested for  
15 paying primary expenses, each county chair and state chair shall  
16 prepare a report that includes:

17           (1) an itemized list of the actual expenses incurred  
18 in connection with the primary election [~~general and runoff~~  
19 ~~primaries~~] by the authority preparing the report and by the  
20 executive committee over which the authority presides;

21           (2) the amount of the primary candidates' filing fees  
22 required to be deposited in the county primary fund if the report is  
23 by a county chair, or in the state primary fund if the report is by  
24 the state chair;

25           (3) the amount of filing fees that have been refunded;

26           (4) the amount of the contributions to the executive  
27 committee over which the authority preparing the report presides

1 that:

2 (A) are for the purpose of defraying primary  
3 election expenses; and

4 (B) have not been included in a report filed  
5 under this section for a previous primary election year; and

6 (5) the balance in the county primary fund if the  
7 report is by a county chair, or in the state primary fund if the  
8 report is by the state chair, that remains after deducting the  
9 primary election expenses actually incurred and the refunded filing  
10 fees.

11 (b) The authority preparing the report shall file it with  
12 the secretary of state not later than August 31 following the  
13 ~~[applicable] primary election[, in the case of the county chair's~~  
14 ~~report, or if no runoff primary is held for a statewide or district~~  
15 ~~office, in the case of the state chair's report].~~

16 SECTION 25. Section 202.007(a), Election Code, is amended  
17 to read as follows:

18 (a) If a vacancy occurs after ~~[runoff]~~ primary election day,  
19 an independent candidate for the unexpired term must file the  
20 application for a place on the ballot not later than 5 p.m. of the  
21 30th day after the date the vacancy occurs or 5 p.m. of the 70th day  
22 before general election day, whichever is earlier.

23 SECTION 26. Section 232.008(c), Election Code, is amended  
24 to read as follows:

25 (c) A contestant must file the petition not later than the  
26 later of the 10th day after the date the election records are  
27 publicly available under Section 1.012 or the official result is

1 determined in a contest of:

2 (1) a primary [~~or runoff primary~~] election; or

3 (2) a general or special election for which a runoff is  
4 necessary according to the official result or will be necessary if  
5 the contestant prevails.

6 SECTION 27. Section 232.048(a), Election Code, is amended  
7 to read as follows:

8 (a) If no candidate receives a majority vote in a new  
9 election ordered by a court in the contest of an election in which a  
10 majority vote is required, a runoff election shall be held[+]

11 [~~(1) for a primary election contest, on the date set by~~  
12 ~~the district court in which the contest was heard, except as~~  
13 ~~provided by Subsection (c); or~~

14 [~~(2) for a contest of a general or special election,~~]  
15 on the date set by the authority responsible for ordering the runoff  
16 election.

17 SECTION 28. Section 255.002(a), Election Code, is amended  
18 to read as follows:

19 (a) The rate charged for political advertising by a radio or  
20 television station may not exceed:

21 (1) during the 45 days preceding a general [~~or runoff~~]  
22 primary election and during the 60 days preceding a general or  
23 special election, the broadcaster's lowest unit charge for  
24 advertising of the same class, for the same time, and for the same  
25 period; or

26 (2) at any time other than that specified by  
27 Subdivision (1), the amount charged other users for comparable use

1 of the station.

2 SECTION 29. The following provisions of the Election Code  
3 are repealed:

- 4 (1) Section 41.007(b);
- 5 (2) Section 172.058(c);
- 6 (3) Section 172.059;
- 7 (4) Section 172.060;
- 8 (5) Section 172.061(b);
- 9 (6) Section 172.084;
- 10 (7) Section 172.120(b-1);
- 11 (8) Section 172.121;
- 12 (9) Section 172.125; and
- 13 (10) Section 173.081(e).

14 SECTION 30. The changes in law made by this Act apply only  
15 to an election ordered on or after September 1, 2021.

16 SECTION 31. This Act takes effect September 1, 2021.