

By: González of Dallas

H.B. No. 4427

A BILL TO BE ENTITLED

AN ACT

1  
2 relating to the powers and duties of the committees and officers of  
3 certain political parties regarding the conduct of primary  
4 elections.

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

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

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

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

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

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

24 SECTION 3. Section 31.099(b), Election Code, is amended to

1 read as follows:

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

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

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

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

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

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

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

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

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

26 (2) the number of hours that each election officer  
27 worked at the polling place or at another location under Section

1 62.014(c), excluding time for which payment may not be made; and

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

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

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

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

24 (a) The secretary of state shall:

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

27 (2) develop materials for a standardized curriculum

1 for that training; and

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

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

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

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

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

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

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

26 (a) If changes in county election precinct boundaries to  
27 give effect to a redistricting plan result in county election

1 precincts with a number of registered voters less than 500, a  
2 commissioners court for a general or special election, or for a  
3 primary election the county chair [~~executive committee~~] of a  
4 political party conducting a primary election, may combine county  
5 election precincts notwithstanding Section 42.005 to avoid  
6 unreasonable expenditures for election equipment, supplies, and  
7 personnel.

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

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

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

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

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

26 (a) The secretary of state shall implement a program to  
27 allow each commissioners court participating in the program to

1 eliminate county election precinct polling places and establish  
2 countywide polling places for:

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

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

7 (3) each election on a proposed constitutional  
8 amendment;

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

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

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

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

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

24 Sec. 51.003. PROCURING AND ALLOCATING SUPPLIES. Except as  
25 otherwise provided by law, the following authority shall procure  
26 the election supplies necessary to conduct an election and shall  
27 determine the quantity of the various types of supplies to be

1 provided to each precinct polling place and early voting polling  
2 place:

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

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

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

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

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

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

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

26 (c) If the county chair [~~executive committee~~] desires to  
27 lease equipment owned by the county served by the chair

1 ~~[committee]~~, the county shall lease the equipment to the chair  
2 ~~[committee]~~ under the terms agreed to by the parties, except that  
3 the county's duty to lease the equipment is subject to reasonable  
4 restrictions and conditions imposed by the commissioners court to:

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

7 (2) protect the equipment from misuse or damage.

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

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

15 (1) \$5 for each unit of electronic voting system  
16 equipment installed at a polling place; and

17 (2) \$5 for each unit of other equipment not specified  
18 by this subsection.

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

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

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

27 (3) operating a central counting station for the



1 primary election.

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

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

6 (1) be in writing;

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

10 (3) be timely filed with the appropriate authority;

11 [~~and~~]

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

15 (5) include:

16 (A) the candidate's name;

17 (B) the candidate's occupation;

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

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

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

26 (F) a statement that the candidate has not been  
27 determined by a final judgment of a court exercising probate

1 jurisdiction to be:

2 (i) totally mentally incapacitated; or

3 (ii) partially mentally incapacitated

4 without the right to vote;

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

8 (H) the candidate's date of birth;

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

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

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

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

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

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

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

8 (1) the state chair of the political party has the  
9 powers, duties, and functions of a county chair under Titles 3, 4,  
10 5, and 8 for that county; and

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

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

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

23 (1) the county chair; and

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

27 SECTION 18. The heading to Section 172.126, Election Code,

1 is amended to read as follows:

2       Sec. 172.126. JOINT PRIMARIES [AUTHORIZED].

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

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

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

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

1 Section 173.0832.

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

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

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

8 (3) provide notice under Section 4.007;

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

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

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

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

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

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

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

26 (A) direct the county clerk to the candidate  
27 filing system on the secretary of state's Internet website to find

1 the candidates' names and offices as they are to appear on the  
2 ballot; and

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

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

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

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

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

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

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

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

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

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

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

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

- 22 (1) the county;
- 23 (2) the candidate's name;
- 24 (3) the office sought; and
- 25 (4) the amount of the accepted fee.

26 (f) The state party shall remit the total of the funds  
27 accepted under Subsection (d) to the secretary of state within 10

1 days of the completion of the filing period.

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

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

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

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

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

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

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

20 Sec. 173.083. STATE PAYMENT OF ESTIMATED PRIMARY EXPENSES.

21 (a) The amount of estimated primary election expenses payable with  
22 state funds under this section is equal to:

23 (1) for a general primary election:

24 (A) if the county chair retains candidate filing  
25 fees collected under Section 172.021, the difference obtained by  
26 subtracting the sum of the filing fees and contributions reported  
27 in the statement of estimated primary election expenses from the



1 total amount of estimated general primary expenses approved by the  
2 secretary of state under Section 173.082; and

3 (B) if the county chair elects to forward  
4 candidate filing fees collected under Section 172.021 pursuant to  
5 Section 173.031(d), the difference obtained by subtracting the  
6 contributions reported in the statement of estimated primary  
7 election expenses from the total amount of estimated general  
8 primary expenses approved by the secretary of state under Section  
9 173.082; and

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

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

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

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

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

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

15           (d) The final installment may not be paid until a report is  
16 filed in compliance with Section 173.084 and, in the case of a  
17 county chair, a report is also filed in compliance with Section  
18 172.124. On the filing of the report, the secretary of state shall  
19 calculate the amount of the final installment and prepare and  
20 deliver to the comptroller of public accounts a certified statement  
21 indicating that amount and the appropriate county election officer,  
22 county chair, or state chair's name.

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

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