

By: Swanson

H.B. No. 126

A BILL TO BE ENTITLED

AN ACT

relating to the required vote by a presidential elector and related procedures.

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

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

Sec. 192.004. ELECTOR CANDIDATE WITHDRAWAL [VACANCY].

SECTION 2. Section 192.006(b), Election Code, is amended to read as follows:

(b) The secretary of state shall arrange for the meeting place, notify the electors, and call the meeting to order. ~~[The secretary shall act as temporary chair of the meeting until the electors elect a chair from among themselves.]~~

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

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

SECTION 4. Subchapter C, Chapter 192, Election Code, is amended by adding Section 192.065 to read as follows:

Sec. 192.065. CERTIFICATION OF ABILITY TO SERVE BY WINNING CANDIDATE; AFFIRMATION OR DENIAL BY ELECTORS. (a) The candidates for president and vice president who received the most votes in this state in the general presidential election, or a legal

1 representative of such a candidate, shall certify not later than
2 the seventh day before the meeting of electors that the candidate is
3 willing and able to serve in the position for which the candidate
4 was elected.

5 (b) At the meeting of electors, the electors shall first
6 vote to affirm or deny the certification made under Subsection (a).
7 If a majority of electors vote to deny the certification that the
8 candidate is willing and able to serve, Subchapter D does not apply
9 to that meeting of electors with respect to the candidate for which
10 the certification was denied.

11 (c) If before the meeting of electors a candidate fails to
12 certify that the candidate is willing and able to serve as provided
13 by Subsection (a), the electors shall first vote on the issue of
14 whether each candidate is willing and able to serve in the position
15 for which the candidate was elected. If a majority of electors vote
16 that the candidate is not willing or able to serve in the position
17 for which the candidate was elected, Subchapter D does not apply to
18 that meeting of electors with respect to that candidate.

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

21 SUBCHAPTER D. REQUIRED ACTION BY PRESIDENTIAL ELECTORS;

22 REPLACEMENT OF ELECTOR

23 Sec. 192.101. DESIGNATION OF STATE'S ELECTORS. Each
24 elector position in this state must be nominated in accordance with
25 political party rules or by an independent or write-in presidential
26 candidate, as applicable. Except as otherwise provided in Sections
27 192.103 and 192.104, this state's electors are the winning elector

1 nominees under the laws of this state.

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

8 (b) Not later than the seventh day before the meeting of
9 electors, each elector nominee and alternate elector nominee of an
10 independent presidential candidate shall execute the following
11 oath: "If selected for the position of elector as a nominee of an
12 independent presidential candidate, I swear to serve and to mark my
13 ballots for that candidate and for that candidate's
14 vice-presidential running mate."

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

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

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

26 (c) To qualify as a substitute elector under Subsection (b),
27 an individual who has not executed the oath required under Section

1 192.102 shall execute the following oath: "I swear to serve and to
2 mark my ballots for president and vice president consistent with
3 the oath of the individual to whose elector position I have
4 succeeded."

5 Sec. 192.104. ELECTOR VOTING. (a) At the time designated
6 for elector voting and after all vacant positions have been filled
7 under Section 192.103, the secretary of state shall provide each
8 elector with a presidential and a vice-presidential ballot. The
9 elector shall mark the elector's presidential and
10 vice-presidential ballots with the elector's votes for the offices
11 of president and vice president, respectively, along with the
12 elector's signature and the elector's legibly printed name.

13 (b) Except as otherwise provided by law of this state other
14 than this subchapter, each elector shall present both completed
15 ballots to the secretary of state. The secretary of state shall
16 examine the ballots, read each vote publicly, and accept as cast all
17 ballots of electors whose votes are consistent with their oaths
18 executed under Section 192.102 or 192.103(c). Except as otherwise
19 provided by law, the secretary of state may not accept and may not
20 count either an elector's presidential or vice-presidential ballot
21 if the elector has not marked both ballots or has marked a ballot in
22 violation of the elector's oath.

23 (c) An elector who refuses to present a ballot, presents an
24 unmarked ballot, or presents a ballot marked in violation of the
25 elector's oath executed under Section 192.102 or 192.103(c) vacates
26 the office of elector, creating a vacant position to be filled under
27 Section 192.103.

1 (d) The secretary of state shall distribute ballots to and
2 collect ballots from a substitute elector and repeat the process
3 under this section of examining ballots, publicly reading the
4 votes, declaring and filling vacant positions as required, and
5 recording appropriately completed ballots from the substituted
6 electors, until all of this state's electoral votes have been cast
7 and recorded.

8 SECTION 6. The following provisions of the Election Code
9 are repealed:

10 (1) Sections 192.004(b), (c), and (d);

11 (2) Section 192.006(c); and

12 (3) Section 192.007.

13 SECTION 7. This Act takes effect immediately if it receives
14 a vote of two-thirds of all the members elected to each house, as
15 provided by Section 39, Article III, Texas Constitution. If this
16 Act does not receive the vote necessary for immediate effect, this
17 Act takes effect September 1, 2023.