

By: Bettencourt, Hall
Middleton

S.B. No. 2433

A BILL TO BE ENTITLED

AN ACT

relating to certain election practices and procedures; increasing a criminal penalty; providing an administrative penalty.

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

SECTION 1. Section 13.002(c), Election Code, is amended to read as follows:

(c) A registration application must include:

(1) the applicant's first name, middle name, if any, last name, and former name, if any;

(2) the month, day, and year of the applicant's birth;

(3) a statement that the applicant is a United States citizen;

(4) a statement that the applicant is a resident of the county;

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

(A) totally mentally incapacitated; or

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

(6) a statement that the applicant has not been finally convicted of a felony or that the applicant is a felon eligible for registration under Section 13.001;

(7) the applicant's residence address or, if the

1 residence has no address: ~~[7]~~

2 (A) the address at which the applicant receives
3 mail;

4 (B) ~~[and]~~ a concise description of the location
5 of the applicant's residence; and

6 (C) a statement that the applicant's residence
7 has no address;

8 (8) the following information:

9 (A) the applicant's Texas driver's license number
10 or the number of a personal identification card issued by the
11 Department of Public Safety;

12 (B) if the applicant has not been issued a number
13 described by Paragraph (A), the last four digits of the applicant's
14 social security number; or

15 (C) a statement by the applicant that the
16 applicant has not been issued a number described by Paragraph (A) or
17 (B);

18 (9) if the application is made by an agent, a statement
19 of the agent's relationship to the applicant; and

20 (10) the city and county in which the applicant
21 formerly resided.

22 SECTION 2. Section 31.037, Election Code, is amended to
23 read as follows:

24 Sec. 31.037. SUSPENSION OR TERMINATION OF EMPLOYMENT. The
25 employment of the county elections administrator may be suspended,
26 with or without pay, or terminated at any time for good and
27 sufficient cause on the three-fifths ~~[four-fifths]~~ vote of the

1 county election commission and approval of that action by a
2 majority vote of the commissioners court.

3 SECTION 3. Section 31.043, Election Code, is amended to
4 read as follows:

5 Sec. 31.043. DUTIES OF ADMINISTRATOR GENERALLY. (a) The
6 county elections administrator shall perform:

7 (1) the duties and functions of the voter registrar;

8 (2) the duties and functions placed on the county
9 clerk by this code;

10 (3) the duties and functions relating to elections
11 that are placed on the county clerk by statutes outside this code,
12 subject to Section 31.044; and

13 (4) the duties and functions placed on the
14 administrator under Sections 31.044 and 31.045.

15 (b) The county elections administrator is a nonvoting
16 member of the county election commission and the county election
17 board.

18 SECTION 4. Subchapter B, Chapter 31, Election Code, is
19 amended by adding Sections 31.0431, 31.0432, 31.0433, 31.0434, and
20 31.0435 to read as follows:

21 Sec. 31.0431. REPORT TO COUNTY ELECTION COMMISSION: VOTE BY
22 MAIL. Not later than the 30th day after the final canvass of an
23 election is completed, the county elections administrator shall
24 provide a report to the county election commission that includes
25 the following information pertaining to voting by mail:

26 (1) the number of applications for a ballot to be voted
27 by mail submitted and the number of applications rejected;

1 (2) the number of official ballots to be voted by mail:

2 (A) provided to an applicant;

3 (B) returned by an applicant;

4 (C) returned undelivered by the United States
5 Postal Service;

6 (D) delivered to the early voting ballot board or
7 signature verification committee;

8 (E) for which the voters were accepted by the
9 early voting ballot board, including accepted voters whose jacket
10 envelopes were empty, contained the wrong ballot, or contained
11 multiple ballots; and

12 (F) for which the voters were rejected by the
13 early voting ballot board;

14 (3) the number of limited ballots to be voted by mail
15 submitted by an applicant; and

16 (4) the number of ballots voted by mail:

17 (A) delivered to the central counting station;

18 (B) duplicated at the central counting station;

19 and

20 (C) tabulated by the central counting station.

21 Sec. 31.0432. REPORT TO COUNTY ELECTION COMMISSION: EARLY
22 VOTING BY PERSONAL APPEARANCE. Not later than the 30th day after the
23 final canvass of an election is completed, the county elections
24 administrator shall provide a report to the county election
25 commission that includes the following information pertaining to
26 each day of early voting by personal appearance:

27 (1) the number of persons accepted to vote using a

- 1 limited ballot and the number of limited ballots cast;
2 (2) the number of:
3 (A) voters accepted to vote at each polling
4 place, including accepted voters who did not cast a vote;
5 (B) votes cast at each polling place and in each
6 election precinct;
7 (C) voters accepted to vote a provisional ballot;
8 (D) provisional ballot affidavits accepted at
9 each polling place;
10 (E) requests for cancellation of an application
11 for a ballot to be voted by mail received by each polling place;
12 (F) spoiled ballots at each polling place;
13 (G) marked ballots deposited in a location other
14 than a ballot box;
15 (H) polling places where 25 percent or more of
16 the election officers were not available to work at the polling
17 place for more than one hour at a time;
18 (I) polling places where a seal on a ballot box or
19 voting equipment did not match the documentation or was broken; and
20 (J) polling places that were not able to
21 reconcile every voter against the record of votes cast, including
22 the number of polling places where the discrepancy exceeded two
23 votes cast;
24 (3) the allocation of voting equipment and election
25 officials for each polling place; and
26 (4) the number of ballots cast during early voting by
27 personal appearance that were duplicated by the central counting

1 station.

2 Sec. 31.0433. REPORT TO COUNTY ELECTION COMMISSION:
3 ELECTION DAY. Not later than the 30th day after the final canvass of
4 an election is completed, the county elections administrator shall
5 provide a report to the county election commission that includes
6 the following information pertaining to election day:

7 (1) the number of:

8 (A) voters accepted to vote at each polling
9 place, including accepted voters who did not cast a vote;

10 (B) votes cast at each polling place and in each
11 election precinct;

12 (C) voters accepted to vote a provisional ballot;

13 (D) provisional ballot affidavits accepted at
14 each polling place;

15 (E) requests for cancellation of an application
16 for a ballot to be voted by mail received by each polling place;

17 (F) spoiled ballots at each polling place; and

18 (G) marked ballots deposited in a location other
19 than a ballot box;

20 (2) the allocation of voting equipment and election
21 officials for each polling place;

22 (3) the number of polling places on election day that:

23 (A) opened at least 10 minutes late due to the
24 malfunction of voting system equipment or a lack of election
25 supplies;

26 (B) closed for more than 30 minutes during voting
27 hours;

1 (C) had 25 percent or more of the voting machines
2 not functioning for at least 30 minutes during voting hours;

3 (D) had 50 percent or more of the scanning
4 equipment not functioning for at least 30 minutes during voting
5 hours;

6 (E) did not have a sufficient supply of ballots,
7 including from a shortage, having the wrong size paper for the
8 voting system, or any other malfunction limiting a person's ability
9 to vote as authorized under this code;

10 (F) did not print the tape showing each voting
11 machine counter was set to zero prior to opening the polls for
12 voting;

13 (G) failed to properly prepare the precinct
14 returns under Section 65.014;

15 (H) had 25 percent or more of the election
16 officers not available to work at the polling place for more than
17 one hour at a time;

18 (I) had a seal on a ballot box or voting equipment
19 that did not match the documentation or was broken; and

20 (J) were not able to reconcile every voter
21 against the record of votes cast, including the number of polling
22 places where the discrepancy exceeded two votes cast;

23 (4) the number of ballots cast on election day that
24 were duplicated by the central counting station; and

25 (5) the number of times a presiding judge delivered
26 the election returns but did not receive a chain of custody
27 document.

1 Sec. 31.0434. REPORT TO COUNTY ELECTION COMMISSION:
2 ADDITIONAL ELECTION INFORMATION. Not later than the 30th day after
3 the final canvass of an election is completed, the county elections
4 administrator shall provide a report to the county election
5 commission that includes the following information pertaining to an
6 election conducted in the county:

7 (1) the number of suspense voters in the county;

8 (2) the number of statements of residence completed at
9 each polling place;

10 (3) a reconciliation of:

11 (A) every election precinct in the county on the
12 number of registered voters and the number of votes cast;

13 (B) every data storage device assigned to a
14 polling place or to ballots to be voted by mail and its inclusion on
15 audit documentation; and

16 (C) the number of votes on each results tape and
17 the total number of votes cast; and

18 (4) an inventory of election records with container
19 labels, including a list of the contents in each container.

20 Sec. 31.0435. COUNTY ELECTION COMMISSION REVIEW OF REPORTS.

21 (a) The county election commission shall review reports provided by
22 the county elections administrator under Section 31.0431.

23 (b) Not later than the 30th day after receiving the reports,
24 the county election commission shall provide recommendations to the
25 county elections administrator based on the provided reports.

26 (c) During the next countywide election, the county
27 election commission shall monitor the county elections

1 administrator to determine whether the administrator is following
2 the recommendations provided by the commission under Subsection
3 (b).

4 SECTION 5. Section 43.031, Election Code, is amended by
5 adding Subsection (f) to read as follows:

6 (f) If the entity that owns or controls a public building
7 selected for a polling place under this section is a school district
8 and fails to make the building available in accordance with
9 Subsection (c), the district may not designate the building as a
10 polling place for an election for the board of trustees or for a
11 school district bond election until after the fifth anniversary of
12 the date of the election in which the district failed to comply with
13 this section.

14 SECTION 6. Section 65.014(e), Election Code, is amended to
15 read as follows:

16 (e) An offense under Subsection (d) is a Class A [~~B~~]
17 misdemeanor.

18 SECTION 7. Section 65.053, Election Code, is amended to
19 read as follows:

20 Sec. 65.053. DELIVERY OF PROVISIONAL BALLOTS. (a) The
21 presiding judge of an election precinct shall deliver in person to
22 the general custodian of election records the box containing each
23 envelope containing a provisional ballot that was cast in the
24 precinct. The secretary of state shall prescribe procedures by
25 which the early voting ballot board may have access to the
26 provisional ballots as necessary to implement this subchapter.

27 (b) The presiding judge of an election precinct shall daily

1 prepare a notice of the number of provisional ballots delivered to
2 the general custodian of elections records under Subsection (a) and
3 deliver the notice to, as applicable:

- 4 (1) the central counting station;
5 (2) the counting station designated under Section
6 127.001(b); or
7 (3) the early voting ballot board.

8 SECTION 8. Section 66.052, Election Code, is amended to
9 read as follows:

10 Sec. 66.052. DELIVERY BY ELECTION CLERK. (a) Subject to
11 Subsection (b), a [A] delivery of election records or supplies that
12 is to be performed by the presiding judge may be performed by an
13 election clerk designated by the presiding judge.

14 (b) A presiding judge may only designate an election clerk
15 under Subsection (a) who has served at the same polling place as the
16 presiding judge for at least four hours before the designation.

17 SECTION 9. Section 66.055, Election Code, is amended to
18 read as follows:

19 Sec. 66.055. FAILURE TO DELIVER [~~JUDICIAL IMPOUNDMENT OF~~]
20 ELECTION RECORDS. (a) If the precinct election records are not
21 delivered by the deadline prescribed by Section 66.053(c):

22 (1) the secretary of state may supervise the
23 activities necessary to complete the count, prepare the precinct
24 returns, and distribute the records; or

25 (2) [7] on application by a member of the canvassing
26 authority, a district judge shall order the precinct election
27 records to be impounded.

1 (b) If the precinct election records are impounded under
2 Subsection (a)(2), the [The] district judge shall supervise the
3 activities necessary to complete the count, prepare the precinct
4 returns, and distribute the records.

5 SECTION 10. Section 67.007, Election Code, is amended by
6 adding Subsection (d-1) to read as follows:

7 (d-1) The secretary of state shall post the county returns
8 on the secretary of state's Internet website, organized by
9 precinct. Not later than 24 hours after the secretary of state posts
10 the county returns, the county clerk shall verify that the county
11 returns on the secretary of state's Internet website accurately
12 reflect the precinct returns delivered to the county clerk.

13 SECTION 11. Section 67.013, Election Code, is amended by
14 adding Subsection (b-1) to read as follows:

15 (b-1) The secretary of state shall compare the county
16 returns with the corresponding local election register. If a
17 discrepancy is discovered between the vote totals shown on the
18 returns and those shown in the register, the secretary of state
19 shall examine the returns and register and make the necessary
20 corrections on the returns.

21 SECTION 12. Section 86.011(b), Election Code, is amended to
22 read as follows:

23 (b) If the return is timely, the clerk shall enter the time
24 and date of receipt on the carrier envelope and enclose the carrier
25 envelope and the voter's early voting ballot application in a
26 jacket envelope. The clerk shall also include in the jacket
27 envelope:

1 (1) a copy of the voter's federal postcard application
2 if the ballot is voted under Chapter 101; and

3 (2) the signature cover sheet, if the ballot is voted
4 under Chapter 105.

5 SECTION 13. Section 127.126, Election Code, is amended by
6 amending Subsection (a) and adding Subsections (a-1) and (g) to
7 read as follows:

8 (a) The manager of a central counting station may have
9 ballots duplicated for automatic counting as provided by this
10 section. The manager shall designate teams of two election
11 officers to prepare the duplicate ballots. Each officer on the team
12 must be aligned or affiliated with a different political party
13 unless there are not two or more election officers serving the
14 central counting station who are aligned with different parties.

15 (a-1) The election officers designated under Subsection (a)
16 shall prepare a duplicate ballot by having one officer announce the
17 name of the candidate and the other officer mark the ballot with the
18 name of that candidate. Each duplicate ballot must be
19 independently reviewed by a second team of two election officers,
20 each of whom is aligned or affiliated with a different political
21 party as described by Subsection (a).

22 (g) The manager of a central counting station shall post the
23 time that ballots will be duplicated to ensure that poll watchers
24 are able to observe the activity under this section.

25 SECTION 14. Section 127.351(c), Election Code, is amended
26 to read as follows:

27 (c) Except as provided by Section 127.352, a [A] county

1 selected to be audited may not be required to pay the cost of
2 performing an audit under this section.

3 SECTION 15. Subchapter J, Chapter 127, Election Code, is
4 amended by adding Section 127.352 to read as follows:

5 Sec. 127.352. COOPERATION BY COUNTY. (a) The secretary of
6 state may request that a county selected under Section 127.351
7 provide to the secretary of state as necessary to complete an audit
8 under this subchapter:

9 (1) records or other documents in the possession of
10 the county; and

11 (2) the assistance of county employees.

12 (b) A county selected under Section 127.351 shall comply
13 with a request made under Subsection (a) not later than the 14th day
14 after the request is made.

15 (c) The secretary of state may assess an administrative
16 penalty of not more than \$500 per day for each day the county fails
17 or refuses to comply with a request under Subsection (a), beginning
18 the 14th day after the request is made and ending the day the county
19 complies with the request.

20 SECTION 16. (a) The change in law made by this Act in
21 amending Section 65.014(e), Election Code, applies only to an
22 offense committed on or after the effective date of this Act. An
23 offense committed before the effective date of this Act is governed
24 by the law in effect on the date the offense was committed, and the
25 former law is continued in effect for that purpose. For purposes of
26 this section, an offense was committed before the effective date of
27 this Act if any element of the offense occurred before that date.

1 (b) Section 127.351(c), Election Code, as amended by this
2 Act, and Section 127.352, Election Code, as added by this Act, apply
3 only to an audit initiated under Subchapter J, Chapter 127,
4 Election Code, as amended by this Act, on or after the effective
5 date of this Act. An audit initiated before the effective date of
6 this Act is governed by the law in effect immediately before the
7 effective date of this Act, and that law is continued in effect for
8 that purpose.

9 SECTION 17. This Act takes effect September 1, 2023.