

By: Bettencourt

S.B. No. 2433

A BILL TO BE ENTITLED

AN ACT

relating to election practices and procedures in a county with a population over 3.5 million.

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

SECTION 1. Section 31.037, Election Code, is amended to read as follows:

Sec. 31.037. SUSPENSION OR TERMINATION OF EMPLOYMENT. The employment of the county elections administrator may be suspended, with or without pay, or terminated at any time for good and sufficient cause on the three-fifths [~~four-fifths~~] vote of the county election commission and approval of that action by a majority vote of the commissioners court.

SECTION 2. Section 31.043, Election Code, is amended to read as follows:

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

- (1) the duties and functions of the voter registrar;
- (2) the duties and functions placed on the county clerk by this code;
- (3) the duties and functions relating to elections that are placed on the county clerk by statutes outside this code, subject to Section 31.044; and
- (4) the duties and functions placed on the administrator under Sections 31.044 and 31.045.

1       (b) The county elections administrator is not a voting  
2 member of the county election commission or the county election  
3 board.

4       SECTION 3. Subchapter B, Chapter 31, Election Code, is  
5 amended by adding Sections 31.0431, 31.0432, 31.0433, 31.0434, and  
6 31.0435 to read as follows:

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

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

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

15                   (A) provided to an applicant;

16                   (B) returned by an applicant;

17                   (C) returned undelivered by the United States  
18 Postal Service;

19                   (D) delivered to the early voting ballot board or  
20 signature verification committee;

21                   (E) for which the voters were accepted by the  
22 early voting ballot board, including accepted voters whose jacket  
23 envelopes were empty, contained the wrong ballot, or contained  
24 multiple ballots; and

25                   (F) for which the voters were rejected by the  
26 early voting ballot board;

27           (3) the number of limited ballots to be voted by mail

1 submitted by an applicant; and

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

3 (A) delivered to the central counting station;

4 (B) duplicated at the central counting station;

5 and

6 (C) tabulated by the central counting station.

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

13 (1) the number of persons accepted to vote using a  
14 limited ballot and the number of limited ballots cast;

15 (2) the number of:

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

18 (B) votes cast at each polling place and in each  
19 election precinct;

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

21 (D) provisional ballot affidavits accepted at  
22 each polling place;

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

25 (F) spoiled ballots at each polling place;

26 (G) marked ballots deposited in a location other  
27 than a ballot box;

1           (H) polling places where 25 percent or more of  
2 the election officers were not available to work at the polling  
3 place for more than one hour at a time;

4           (I) polling places where a seal on a ballot box or  
5 voting equipment did not match the documentation or was broken; and

6           (J) polling places that were not able to  
7 reconcile every voter against the record of votes cast, including  
8 the number of polling places where the discrepancy exceeded two  
9 votes cast;

10          (3) the allocation of voting equipment and election  
11 officials for each polling place; and

12          (4) the number of ballots cast during early voting by  
13 personal appearance that were duplicated by the central counting  
14 station.

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

20           (1) the number of:

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

23           (B) votes cast at each polling place and in each  
24 election precinct;

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

26           (D) provisional ballot affidavits accepted at  
27 each polling place;

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

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

4           (G) marked ballots deposited in a location other  
5 than a ballot box;

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

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

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

12           (B) closed for more than 30 minutes during voting  
13 hours;

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

16           (D) had 50 percent or more of the scanning  
17 equipment not functioning for at least 30 minutes during voting  
18 hours;

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

23           (F) did not print the tape showing each voting  
24 machine counter was set to zero prior to opening the polls for  
25 voting;

26           (G) failed to properly prepare the precinct  
27 returns under Section [65.014](#);

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

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

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

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

11           (5) the number of times a presiding judge delivered  
12 the election returns but did not receive a chain of custody  
13 document.

14           Sec. 31.0434. REPORT TO COUNTY ELECTION COMMISSION:  
15 ADDITIONAL ELECTION INFORMATION. Not later than the 30th day after  
16 the final canvass of an election is completed, the county elections  
17 administrator shall provide a report to the county election  
18 commission that includes the following information pertaining to an  
19 election conducted in the county:

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

21           (2) the number of statements of residence completed at  
22 each polling place;

23           (3) a reconciliation of:

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

26           (B) every data storage device assigned to a  
27 polling place or to ballots to be voted by mail and its inclusion on

1 audit documentation; and

2 (C) the number of votes on each results tape and  
3 the total number of votes cast; and

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

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

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

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

12 (c) During the next countywide election, the county  
13 election commission shall monitor the county elections  
14 administrator to determine whether the administrator is following  
15 the recommendations provided by the commission under Subsection  
16 (b).

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

19 (f) If the entity that owns or controls a public building  
20 selected for a polling place under this section is a school district  
21 and fails to make the building available in accordance with  
22 Subsection (c), the district may not designate the building as a  
23 polling place for an election for the board of trustees or for a  
24 school district bond election until after the fifth anniversary of  
25 the date of the election in which the district failed to comply with  
26 this section.

27 SECTION 5. Section 65.053, Election Code, is amended to

1 read as follows:

2           Sec. 65.053. DELIVERY OF PROVISIONAL BALLOTS. (a) The  
3 presiding judge of an election precinct shall deliver in person to  
4 the general custodian of election records the box containing each  
5 envelope containing a provisional ballot that was cast in the  
6 precinct. The secretary of state shall prescribe procedures by  
7 which the early voting ballot board may have access to the  
8 provisional ballots as necessary to implement this subchapter.

9           (b) The presiding judge of an election precinct shall daily  
10 prepare a notice of the number of provisional ballots delivered to  
11 the general custodian of elections records under Subsection (a) and  
12 deliver the notice to, as applicable:

13                     (1) the central counting station;

14                     (2) the counting station designated under Section  
15 127.001(b); or

16                     (3) the early voting ballot board.

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

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

21           SECTION 7. Section 66.052, Election Code, is amended to  
22 read as follows:

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

27           (b) A presiding judge may only designate an election clerk

1 under Subsection (a) who has served at the same polling place as the  
2 presiding judge for at least four hours before the designation.

3 SECTION 8. Section 66.055, Election Code, is amended to  
4 read as follows:

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

8 (1) the secretary of state may supervise the  
9 activities necessary to complete the count, prepare the precinct  
10 returns, and distribute the records; or

11 (2) [7] on application by a member of the canvassing  
12 authority, a district judge shall order the precinct election  
13 records to be impounded.

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

18 SECTION 9. The change in law made by this Act in amending  
19 Section 65.014(e), Election Code, applies only to an offense  
20 committed on or after the effective date of this Act. An offense  
21 committed before the effective date of this Act is governed by the  
22 law in effect on the date the offense was committed, and the former  
23 law is continued in effect for that purpose. For purposes of this  
24 section, an offense was committed before the effective date of this  
25 Act if any element of the offense occurred before that date.

26 SECTION 10. Section 65.053, Election Code, is amended to  
27 read as follows:

1           Sec. 65.053. DELIVERY OF PROVISIONAL BALLOTS. (a) The  
2   presiding judge of an election precinct shall deliver in person to  
3   the general custodian of election records the box containing each  
4   envelope containing a provisional ballot that was cast in the  
5   precinct. The secretary of state shall prescribe procedures by  
6   which the early voting ballot board may have access to the  
7   provisional ballots as necessary to implement this subchapter.

8           (b) The presiding judge of an election precinct shall daily  
9   prepare a notice of the number of provisional ballots delivered to  
10 the general custodian of elections records under Subsection (a)  
11 and deliver the notice to, as applicable:

12                   (1) the central counting station;

13                   (2) the counting station designated under Section  
14 127.001(b); or

15                   (3) the early voting ballot board.

16           SECTION 11. Section 86.011(b), Election Code, is amended to  
17 read as follows:

18           (b) If the return is timely, the clerk shall enter the time  
19 and date of receipt on the carrier envelope and enclose the carrier  
20 envelope and the voter's early voting ballot application in a  
21 jacket envelope. The clerk shall also include in the jacket  
22 envelope:

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

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

27           SECTION 12. Section 127.126, Election Code, is amended by

1 amending Subsection (a) and adding Subsections (a-1) and (g) to  
2 read as follows:

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

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

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

20 SECTION 13. Section 127.351(c), Election Code, is amended  
21 to read as follows:

22 (c) Except as provided by Section 127.352, a [A] county  
23 selected to be audited may not be required to pay the cost of  
24 performing an audit under this section.

25 SECTION 14. Subchapter J, Chapter 127, Election Code, is  
26 amended by adding Section 127.352 to read as follows:

27 Sec. 127.352. COOPERATION BY COUNTY. (a) The secretary of

1 state may request that a county selected under Section 127.351  
2 provide to the secretary of state as necessary to complete an audit  
3 under this subchapter:

4 (1) records or other documents in the possession of  
5 the county; and

6 (2) the assistance of county employees.

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

10 (c) The secretary of state may assess an administrative  
11 penalty of not more than \$500 per day for each day following the  
12 14th day after a request under Subsection (a) is made that the  
13 county fails or refuses to comply with the request.

14 SECTION 15. The changes in law made by this Act apply only  
15 to an audit initiated under Subchapter J, Chapter 127, Election  
16 Code, as amended by this Act, on or after the effective date of this  
17 Act. An audit initiated before the effective date of this Act is  
18 governed by the law in effect immediately before the effective date  
19 of this Act, and that law is continued in effect for that purpose.