

1-1 By: Bettencourt, Middleton S.B. No. 2433
1-2 (In the Senate - Filed March 10, 2023; March 23, 2023, read
1-3 first time and referred to Committee on State Affairs;
1-4 April 17, 2023, reported adversely, with favorable Committee
1-5 Substitute by the following vote: Yeas 8, Nays 2; April 17, 2023,
1-6 sent to printer.)

1-7 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
Hughes	X			
Paxton	X			
Bettencourt	X			
Birdwell	X			
LaMantia		X		
Menéndez		X		
Middleton	X			
Parker	X			
Perry	X			
Schwertner	X			
Zaffirini			X	

1-20 COMMITTEE SUBSTITUTE FOR S.B. No. 2433 By: Hughes

1-21 A BILL TO BE ENTITLED
1-22 AN ACT

1-23 relating to certain election practices and procedures; increasing a
1-24 criminal penalty; providing an administrative penalty.

1-25 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-26 SECTION 1. Section 13.002(c), Election Code, is amended to
1-27 read as follows:

1-28 (c) A registration application must include:

1-29 (1) the applicant's first name, middle name, if any,
1-30 last name, and former name, if any;

1-31 (2) the month, day, and year of the applicant's birth;

1-32 (3) a statement that the applicant is a United States
1-33 citizen;

1-34 (4) a statement that the applicant is a resident of the
1-35 county;

1-36 (5) a statement that the applicant has not been
1-37 determined by a final judgment of a court exercising probate
1-38 jurisdiction to be:

1-39 (A) totally mentally incapacitated; or

1-40 (B) partially mentally incapacitated without the
1-41 right to vote;

1-42 (6) a statement that the applicant has not been
1-43 finally convicted of a felony or that the applicant is a felon
1-44 eligible for registration under Section 13.001;

1-45 (7) the applicant's residence address or, if the
1-46 residence has no address: [✓]

1-47 (A) the address at which the applicant receives

1-48 mail;

1-49 (B) [and] a concise description of the location
1-50 of the applicant's residence; and

1-51 (C) a statement that the applicant's residence

1-52 has no address;

1-53 (8) the following information:

1-54 (A) the applicant's Texas driver's license number
1-55 or the number of a personal identification card issued by the
1-56 Department of Public Safety;

1-57 (B) if the applicant has not been issued a number
1-58 described by Paragraph (A), the last four digits of the applicant's
1-59 social security number; or

1-60 (C) a statement by the applicant that the

2-1 applicant has not been issued a number described by Paragraph (A) or
 2-2 (B);

2-3 (9) if the application is made by an agent, a statement
 2-4 of the agent's relationship to the applicant; and
 2-5 (10) the city and county in which the applicant
 2-6 formerly resided.

2-7 SECTION 2. Section 31.037, Election Code, is amended to
 2-8 read as follows:

2-9 Sec. 31.037. SUSPENSION OR TERMINATION OF EMPLOYMENT. The
 2-10 employment of the county elections administrator may be suspended,
 2-11 with or without pay, or terminated at any time for good and
 2-12 sufficient cause on the three-fifths [~~four-fifths~~] vote of the
 2-13 county election commission and approval of that action by a
 2-14 majority vote of the commissioners court.

2-15 SECTION 3. Section 31.043, Election Code, is amended to
 2-16 read as follows:

2-17 Sec. 31.043. DUTIES OF ADMINISTRATOR GENERALLY. (a) The
 2-18 county elections administrator shall perform:

2-19 (1) the duties and functions of the voter registrar;
 2-20 (2) the duties and functions placed on the county
 2-21 clerk by this code;

2-22 (3) the duties and functions relating to elections
 2-23 that are placed on the county clerk by statutes outside this code,
 2-24 subject to Section 31.044; and

2-25 (4) the duties and functions placed on the
 2-26 administrator under Sections 31.044 and 31.045.

2-27 (b) The county elections administrator is a nonvoting
 2-28 member of the county election commission and the county election
 2-29 board.

2-30 SECTION 4. Subchapter B, Chapter 31, Election Code, is
 2-31 amended by adding Sections 31.0431, 31.0432, 31.0433, 31.0434, and
 2-32 31.0435 to read as follows:

2-33 Sec. 31.0431. REPORT TO COUNTY ELECTION COMMISSION: VOTE BY
 2-34 MAIL. Not later than the 30th day after the final canvass of an
 2-35 election is completed, the county elections administrator shall
 2-36 provide a report to the county election commission that includes
 2-37 the following information pertaining to voting by mail:

2-38 (1) the number of applications for a ballot to be voted
 2-39 by mail submitted and the number of applications rejected;

2-40 (2) the number of official ballots to be voted by mail:

2-41 (A) provided to an applicant;
 2-42 (B) returned by an applicant;
 2-43 (C) returned undelivered by the United States

2-44 Postal Service;
 2-45 (D) delivered to the early voting ballot board or
 2-46 signature verification committee;

2-47 (E) for which the voters were accepted by the
 2-48 early voting ballot board, including accepted voters whose jacket
 2-49 envelopes were empty, contained the wrong ballot, or contained
 2-50 multiple ballots; and

2-51 (F) for which the voters were rejected by the
 2-52 early voting ballot board;

2-53 (3) the number of limited ballots to be voted by mail
 2-54 submitted by an applicant; and

2-55 (4) the number of ballots voted by mail:

2-56 (A) delivered to the central counting station;

2-57 (B) duplicated at the central counting station;
 2-58 and

2-59 (C) tabulated by the central counting station.

2-60 Sec. 31.0432. REPORT TO COUNTY ELECTION COMMISSION: EARLY
 2-61 VOTING BY PERSONAL APPEARANCE. Not later than the 30th day after the
 2-62 final canvass of an election is completed, the county elections
 2-63 administrator shall provide a report to the county election
 2-64 commission that includes the following information pertaining to
 2-65 each day of early voting by personal appearance:

2-66 (1) the number of persons accepted to vote using a
 2-67 limited ballot and the number of limited ballots cast;

2-68 (2) the number of:

2-69 (A) voters accepted to vote at each polling

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

3-26 Sec. 31.0433. REPORT TO COUNTY ELECTION COMMISSION:
3-27 ELECTION DAY. Not later than the 30th day after the final canvass of
3-28 an election is completed, the county elections administrator shall
3-29 provide a report to the county election commission that includes
3-30 the following information pertaining to election day:

3-31 (1) the number of:
3-32 (A) voters accepted to vote at each polling
3-33 place, including accepted voters who did not cast a vote;
3-34 (B) votes cast at each polling place and in each
3-35 election precinct;
3-36 (C) voters accepted to vote a provisional ballot;
3-37 (D) provisional ballot affidavits accepted at
3-38 each polling place;
3-39 (E) requests for cancellation of an application
3-40 for a ballot to be voted by mail received by each polling place;
3-41 (F) spoiled ballots at each polling place; and
3-42 (G) marked ballots deposited in a location other
3-43 than a ballot box;
3-44 (2) the allocation of voting equipment and election
3-45 officials for each polling place;
3-46 (3) the number of polling places on election day that:
3-47 (A) opened at least 10 minutes late due to the
3-48 malfunction of voting system equipment or a lack of election
3-49 supplies;
3-50 (B) closed for more than 30 minutes during voting
3-51 hours;
3-52 (C) had 25 percent or more of the voting machines
3-53 not functioning for at least 30 minutes during voting hours;
3-54 (D) had 50 percent or more of the scanning
3-55 equipment not functioning for at least 30 minutes during voting
3-56 hours;
3-57 (E) did not have a sufficient supply of ballots,
3-58 including from a shortage, having the wrong size paper for the
3-59 voting system, or any other malfunction limiting a person's ability
3-60 to vote as authorized under this code;
3-61 (F) did not print the tape showing each voting
3-62 machine counter was set to zero prior to opening the polls for
3-63 voting;
3-64 (G) failed to properly prepare the precinct
3-65 returns under Section 65.014;
3-66 (H) had 25 percent or more of the election
3-67 officers not available to work at the polling place for more than
3-68 one hour at a time;
3-69 (I) had a seal on a ballot box or voting equipment

4-1 that did not match the documentation or was broken; and
 4-2 (J) were not able to reconcile every voter
 4-3 against the record of votes cast, including the number of polling
 4-4 places where the discrepancy exceeded two votes cast;
 4-5 (4) the number of ballots cast on election day that
 4-6 were duplicated by the central counting station; and
 4-7 (5) the number of times a presiding judge delivered
 4-8 the election returns but did not receive a chain of custody
 4-9 document.

4-10 Sec. 31.0434. REPORT TO COUNTY ELECTION COMMISSION:
 4-11 ADDITIONAL ELECTION INFORMATION. Not later than the 30th day after
 4-12 the final canvass of an election is completed, the county elections
 4-13 administrator shall provide a report to the county election
 4-14 commission that includes the following information pertaining to an
 4-15 election conducted in the county:

4-16 (1) the number of suspense voters in the county;
 4-17 (2) the number of statements of residence completed at
 4-18 each polling place;
 4-19 (3) a reconciliation of:
 4-20 (A) every election precinct in the county on the
 4-21 number of registered voters and the number of votes cast;
 4-22 (B) every data storage device assigned to a
 4-23 polling place or to ballots to be voted by mail and its inclusion on
 4-24 audit documentation; and
 4-25 (C) the number of votes on each results tape and
 4-26 the total number of votes cast; and
 4-27 (4) an inventory of election records with container
 4-28 labels, including a list of the contents in each container.

4-29 Sec. 31.0435. COUNTY ELECTION COMMISSION REVIEW OF REPORTS.
 4-30 (a) The county election commission shall review reports provided by
 4-31 the county elections administrator under Section 31.0431.
 4-32 (b) Not later than the 30th day after receiving the reports,
 4-33 the county election commission shall provide recommendations to the
 4-34 county elections administrator based on the provided reports.
 4-35 (c) During the next countywide election, the county
 4-36 election commission shall monitor the county elections
 4-37 administrator to determine whether the administrator is following
 4-38 the recommendations provided by the commission under Subsection
 4-39 (b).

4-40 SECTION 5. Section 43.031, Election Code, is amended by
 4-41 adding Subsection (f) to read as follows:

4-42 (f) If the entity that owns or controls a public building
 4-43 selected for a polling place under this section is a school district
 4-44 and fails to make the building available in accordance with
 4-45 Subsection (c), the district may not designate the building as a
 4-46 polling place for an election for the board of trustees or for a
 4-47 school district bond election until after the fifth anniversary of
 4-48 the date of the election in which the district failed to comply with
 4-49 this section.

4-50 SECTION 6. Section 65.014(e), Election Code, is amended to
 4-51 read as follows:

4-52 (e) An offense under Subsection (d) is a Class A [B]
 4-53 misdemeanor.

4-54 SECTION 7. Section 65.053, Election Code, is amended to
 4-55 read as follows:

4-56 Sec. 65.053. DELIVERY OF PROVISIONAL BALLOTS. (a) The
 4-57 presiding judge of an election precinct shall deliver in person to
 4-58 the general custodian of election records the box containing each
 4-59 envelope containing a provisional ballot that was cast in the
 4-60 precinct. The secretary of state shall prescribe procedures by
 4-61 which the early voting ballot board may have access to the
 4-62 provisional ballots as necessary to implement this subchapter.

4-63 (b) The presiding judge of an election precinct shall daily
 4-64 prepare a notice of the number of provisional ballots delivered to
 4-65 the general custodian of elections records under Subsection (a) and
 4-66 deliver the notice to, as applicable:

4-67 (1) the central counting station;
 4-68 (2) the counting station designated under Section
 4-69 127.001(b); or

(3) the early voting ballot board.

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

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

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

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

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

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

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

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

SECTION 10. Section 88.011(b), Election Code, is amended to read as follows:

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

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

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

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

(a) The manager of a central counting station may have ballots duplicated for automatic counting as provided by this

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

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

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

SECTION 12. Section 127.351(c), Election Code, is amended to read as follows:

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

SECTION 13. Subchapter J, Chapter 127, Election Code, is amended by adding Section 127.352 to read as follows:

amended by adding Section 127.352 to read as follows:

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

under this subchapter: (1) records or other documents in the possession of the county; and

(2) the assistance of county employees.

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

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

6-10 SECTION 14. (a) The change in law made by this Act in
6-11 amending Section 65.014(e), Election Code, applies only to an
6-12 offense committed on or after the effective date of this Act. An
6-13 offense committed before the effective date of this Act is governed
6-14 by the law in effect on the date the offense was committed, and the
6-15 former law is continued in effect for that purpose. For purposes of
6-16 this section, an offense was committed before the effective date of
6-17 this Act if any element of the offense occurred before that date.

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

SECTION 15. This Act takes effect September 1, 2023.

* * * *