By: Vasut H.B. No. 1218

A BILL TO BE ENTITLED

AN ACT

relating to residence for purposes of voting and other matters affecting a candidate's eligibility.

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

SECTION 1. Section 1.015, Election Code, is amended by adding Subsections (g) and (h) to read as follows:

(g) A person has not inhabited a place under Subsection (f) unless the person has slept overnight, eaten, and kept personal belongings at the place. For purposes of this section, personal belongings include clothing, medicine, toiletries, furniture, or other personal property used in connection with daily living.

(h) A person may not establish a residence at a property during any period in which the person claims an active residence homestead exemption for another property. For purposes of determining when a residence homestead exemption is active under this subsection, a residence homestead exemption for another property is not active on or after the date the person:

(1) sold that property in a bona fide sale for value; or

(2) filed an application for a residence homestead exemption with an appraisal district for the property indicated as the person's residence on the registration records.

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

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

(1) be in writing;

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

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

(4) include:

(A) the candidate's name;

(B) the candidate's occupation;

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

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

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

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

(i) totally mentally incapacitated; or

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

(G) an indication that the candidate has either not been finally convicted of a felony or if so convicted has been

pardoned or otherwise released from the resulting disabilities;

(H) the candidate's date of birth;

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

(I-1) a statement that the candidate has inhabited the residence described by Paragraph (I);

(I-2) the address of any residence at which the candidate claims a residence homestead exemption;

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

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

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

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

SECTION 3. Section 145.003(a), Election Code, is amended to read as follows:

(a) Except for a judicial action under Subchapter G, Chapter 273 [~~in which a candidate's eligibility is in issue~~], a candidate may be declared ineligible only as provided by this section.

SECTION 4. Section 172.052(a), Election Code, is amended to read as follows:

(a) A candidate for nomination may not withdraw from the general primary election after the 50th day before [~~first day after~~] the date of [~~the regular filing deadline for~~] the general primary election.

SECTION 5. Section 172.057, Election Code, is amended to read as follows:

Sec. 172.057. WITHDRAWN, DECEASED, OR INELIGIBLE CANDIDATE'S NAME OMITTED FROM GENERAL PRIMARY BALLOT. A candidate's name shall be omitted from the general primary election ballot if the candidate withdraws, dies, or is declared ineligible on or before the 50th day before the date of the general primary election [~~first day after the date of the regular filing deadline~~].

SECTION 6. Section 172.058(a), Election Code, is amended to read as follows:

(a) If a candidate who has made an application for a place on the general primary election ballot that complies with the applicable requirements dies or is declared ineligible after the 50th [~~first~~] day before the date of [~~after~~] the general primary election [~~date of the regular filing deadline~~], the candidate's name shall be placed on the ballot and the votes cast for the candidate shall be counted and entered on the official election returns in the same manner as for the other candidates.

SECTION 7. Chapter 273, Election Code, is amended by adding Subchapter G to read as follows:

SUBCHAPTER G. JUDICIAL DETERMINATION OF ELIGIBILITY

Sec. 273.151. APPLICABILITY OF SUBCHAPTER; EXCLUSIVE REMEDY. (a) This subchapter applies to any action alleging the ineligibility of a candidate for a public elective office in this state.

(b) This subchapter prevails to the extent of any conflict between this subchapter and any other law of this state.

(c) This subchapter provides the exclusive remedy for a judicial determination of a candidate's eligibility under this code.

Sec. 273.152. STANDING. Any registered voter of the territory from which a candidate seeks to be elected may file an action challenging the candidate's eligibility under this subchapter.

Sec. 273.153. VENUE. Venue for an action under this subchapter is in the county where the candidate whose eligibility is being challenged claims a residence on the candidate's voter registration records or application for a place on the ballot.

Sec. 273.154. TIME FOR FILING PETITION. A voter may file a petition challenging the eligibility of a candidate under this subchapter not later than the 30th day before the relevant election day.

Sec. 273.155. CIVIL ACTION WAIVER. (a) Except as provided by Subsection (b) and only in a year in which a primary election is held, a voter waives their right to file a legal action challenging

the eligibility of a candidate in a general election if the voter did not challenge the eligibility of the candidate prior to the primary election in the same voting year.

(b) A voter does not waive their right to file a legal action under Subsection (a) if the voter's action is exclusively based on evidence the voter learned of after the primary election.

Sec. 273.156. RELIEF. A petitioner who brings an action under this subchapter may obtain:

(1) declaratory, injunctive, or equitable relief necessary to effectuate a court's determination that a candidate is ineligible for the office sought; and

(2) court costs.

Sec. 273.157. DISCOVERY. (a) Discovery in an action under this subchapter shall be limited to facts relating to the candidate's eligibility.

(b) The court shall allow a party expedited discovery if:

(1) the petition is a sworn petition; or

(2) the court receives the petitioner's sworn motion providing specific factual allegations of the candidate's ineligibility and the petitioner asserts that discovery will reveal evidence of ineligibility.

(c) The court may allow a party to conduct expedited discovery for good cause, as determined by the court.

(d) An order granting expedited discovery under this section must allow for the deposition of the candidate.

Sec. 273.158. PRIMARY ELECTION: RULING. In an action under this subchapter challenging a candidate's eligibility to be a

candidate in a general primary election, the court shall hold an evidentiary hearing on the petition and shall rule that the candidate is eligible or is not eligible not later than:

(1) the 55th day before election day if the petition was filed not later than the 70th day before election day; or

(2) election day if the petition was filed after the 70th day before election day.

Sec. 273.159. GENERAL ELECTION: RULING. In an action under this subchapter challenging a candidate's eligibility to be a candidate in a general election, the court shall hold an evidentiary hearing on the petition and shall rule that the candidate is eligible or is not eligible not later than:

(1) the 80th day before election day if the petition was filed not later than the 100th day before election day; or

(2) election day if the petition was filed after the 100th day before election day.

Sec. 273.160. SPECIAL ELECTION: RULING. In an action under this subchapter challenging a candidate's eligibility to be a candidate in a special election, the court shall hold an evidentiary hearing on the petition and shall rule that the candidate is eligible or is not eligible not later than:

(1) the 30th day before election day if the petition was filed not later than the 45th day before election day; or

(2) election day if the petition was filed after the 45th day before election day.

SECTION 8. The changes in law made by this Act apply only to an election held on or after the effective date of this Act. An

election held before the effective date of this Act is governed by the law in effect when the election was held, and that law is continued in effect for that purpose.

SECTION 9. This Act takes effect December 1, 2028.