

1-1 By: Faircloth (Senate Sponsor - Huffman) H.B. No. 1735
 1-2 (In the Senate - Received from the House May 1, 2017;
 1-3 May 3, 2017, read first time and referred to Committee on State
 1-4 Affairs; May 12, 2017, reported favorably by the following vote:
 1-5 Yeas 9, Nays 0; May 12, 2017, sent to printer.)

1-6 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-7				
1-8	X			
1-9	X			
1-10	X			
1-11	X			
1-12	X			
1-13	X			
1-14	X			
1-15	X			
1-16	X			

1-17 A BILL TO BE ENTITLED
 1-18 AN ACT

1-19 relating to certain election officers.
 1-20 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:
 1-21 SECTION 1. Chapter 1, Election Code, is amended by adding
 1-22 Section 1.016 to read as follows:
 1-23 Sec. 1.016. OATHS BY ELECTION OFFICERS. (a) An oath or
 1-24 statement required by the Texas Constitution or this code prior to
 1-25 an election officer entering service may be administered and a
 1-26 certificate of the fact given by:
 1-27 (1) the secretary of state, a member of the secretary
 1-28 of state's staff, or a state inspector appointed by the secretary;
 1-29 (2) a county or municipal clerk or the clerk's
 1-30 deputies;
 1-31 (3) a county tax assessor-collector or the county tax
 1-32 assessor-collector's deputies;
 1-33 (4) a city secretary;
 1-34 (5) a member of a county election commission or county
 1-35 election board;
 1-36 (6) a county elections administrator or employee of a
 1-37 county elections administrator;
 1-38 (7) the secretary of the governing body of a political
 1-39 subdivision other than a county or city or the authority performing
 1-40 the duties of a secretary under this code;
 1-41 (8) a presiding election judge or alternate presiding
 1-42 judge who has already entered service;
 1-43 (9) an early voting clerk or a deputy early voting
 1-44 clerk who has already entered service;
 1-45 (10) a member of an early voting ballot board or
 1-46 signature verification committee who has already entered service;
 1-47 or
 1-48 (11) a presiding judge, manager, or tabulation
 1-49 supervisor of a central counting station who has already entered
 1-50 service.
 1-51 (b) An oath, statement, or certificate described under
 1-52 Subsection (a) is valid for the duration of the election officer's
 1-53 term of office and shall be filed with election records for the
 1-54 election in which the election officer is serving.
 1-55 (c) The secretary of state may prescribe a form of oath,
 1-56 statement, or certificate that incorporates any oaths or statements
 1-57 required by the Texas Constitution or this code for an election
 1-58 officer into a single oath or statement.
 1-59 SECTION 2. Section 32.002, Election Code, is amended by
 1-60 adding Subsection (c-1) to read as follows:
 1-61 (c-1) For purposes of this subsection, the county chair

2-1 shall provide a list of names of persons eligible for appointment as
 2-2 election judges. Judges of countywide polling places established
 2-3 under Section 43.007 must be appointed from the list of names of
 2-4 persons submitted by the county chair in compliance with Subsection
 2-5 (c) except that in appointing a person from the list the
 2-6 commissioners court shall apportion the number of judges in direct
 2-7 proportion to the percentage of precincts located in each county
 2-8 commissioners precinct won by each party in the last gubernatorial
 2-9 election, the commissioners court is not required to make the
 2-10 appointments based on specific polling locations or precincts, a
 2-11 presiding judge or alternate presiding judge is not required to
 2-12 serve in a polling place located in the precinct in which the judge
 2-13 resides, and more than one presiding judge or alternate presiding
 2-14 judge may be selected from the same precinct to serve in polling
 2-15 places not located in the precinct in which the judges reside. The
 2-16 county chairs may submit, and the commissioners court may
 2-17 preapprove, the appointment of more presiding judges or alternate
 2-18 presiding judges than necessary to fill available positions. The
 2-19 county clerk may select an individual whose appointment was
 2-20 preapproved by the commissioners court to fill a vacancy in a
 2-21 position that was held by an individual from the same political
 2-22 party. Other than a judge's party affiliation, nothing in this
 2-23 subsection precludes a county clerk from placing an election
 2-24 officer at a countywide polling place based on the need for services
 2-25 at that location.

2-26 SECTION 3. Section 32.002, Election Code, is amended by
 2-27 adding Subsection (g) to read as follows:

2-28 (g) Following an oral warning to the election judge and with
 2-29 the concurrence of the county chair of the same political party with
 2-30 which the judge is affiliated or aligned, the county clerk may
 2-31 remove, replace, or reassign an election judge who causes a
 2-32 disruption in a polling location or wilfully disobeys the
 2-33 provisions of this code. A vacancy created under this subsection
 2-34 shall be filled in the same manner as an emergency appointment under
 2-35 Section 32.007.

2-36 SECTION 4. Section 32.006(a), Election Code, is amended to
 2-37 read as follows:

2-38 (a) The county chair of a political party holding a primary
 2-39 election shall appoint for each primary [~~with the approval of the~~
 2-40 ~~county executive committee,~~] the judges for each precinct in which
 2-41 the election will be held in the county and fill any vacancy that
 2-42 occurs in the position of presiding judge or alternate presiding
 2-43 judge.

2-44 SECTION 5. Section 32.009(d), Election Code, is amended to
 2-45 read as follows:

2-46 (d) A notice to a presiding judge must state the name, [~~and~~
 2-47 address, and any available telephone number and e-mail address of
 2-48 the alternate, and a notice to an alternate must state the name,
 2-49 [~~and~~] address, and any available telephone number and e-mail
 2-50 address of the presiding judge.

2-51 SECTION 6. Subchapter A, Chapter 32, Election Code, is
 2-52 amended by adding Section 32.012 to read as follows:

2-53 Sec. 32.012. PROVISION OF INFORMATION RELATING TO ELECTION
 2-54 JUDGES APPOINTED BY COMMISSIONERS COURT. (a) After the
 2-55 commissioners court appoints a presiding election judge and an
 2-56 alternate presiding judge, the county clerk shall provide to the
 2-57 county chair of each political party a list of the individuals
 2-58 appointed by the commissioners court.

2-59 (b) The appointment list must be provided in writing.

2-60 SECTION 7. Section 32.034, Election Code, is amended by
 2-61 adding Subsection (f) to read as follows:

2-62 (f) Following an oral warning to the election clerk and with
 2-63 the concurrence of the county chair of the same political party with
 2-64 which the election clerk is affiliated or aligned, the county clerk
 2-65 may remove, replace, or reassign an election clerk who causes a
 2-66 disruption in a polling location or wilfully disobeys the
 2-67 provisions of this code. A vacancy created under this subsection
 2-68 shall be filled by the presiding judge, who shall appoint a
 2-69 replacement election clerk who is affiliated or aligned with the

3-1 same political party as the original clerk, if possible.

3-2 SECTION 8. Section 32.114(e), Election Code, is amended to
3-3 read as follows:

3-4 (e) An election judge, early voting clerk, or deputy early
3-5 voting clerk in charge of an early voting polling place is entitled
3-6 to compensation for attending the training program at an hourly
3-7 rate fixed by the appropriate authority in an amount that is equal
3-8 to or greater than the federal minimum wage [not to exceed \$7].

3-9 SECTION 9. Section 43.007, Election Code, is amended by
3-10 amending Subsection (a) and adding Subsections (m) and (n) to read
3-11 as follows:

3-12 (a) The secretary of state shall implement a program to
3-13 allow each commissioners court participating in the program to
3-14 eliminate county election precinct polling places and establish
3-15 countywide polling places for:

3-16 (1) each general election for state and county
3-17 officers;

3-18 (2) each election held on the uniform election date in
3-19 May and any resulting runoff;

3-20 (3) each election on a proposed constitutional
3-21 amendment;

3-22 (4) each primary election and runoff primary election
3-23 if:

3-24 (A) the county chair or county executive
3-25 committee of each political party participating in a joint primary
3-26 election under Section 172.126 agrees to the use of countywide
3-27 polling places; or

3-28 (B) the county chair or county executive
3-29 committee of each political party required to nominate candidates
3-30 by primary election agrees to use the same countywide polling
3-31 places; and

3-32 (5) each election of a political subdivision located
3-33 in the county that is held jointly with an election described by
3-34 Subdivision (1), (2), (3), or (4).

3-35 (m) In adopting a methodology under Subsection (f), the
3-36 county must ensure that:

3-37 (1) each county commissioners precinct contains at
3-38 least one countywide polling place; and

3-39 (2) the total number of permanent branch and temporary
3-40 branch polling places open for voting in a county commissioners
3-41 precinct does not exceed more than twice the number of permanent
3-42 branch and temporary branch polling places in another county
3-43 commissioners precinct.

3-44 (n) To the greatest extent possible, countywide polling
3-45 places shall be located in a precinct where the political party that
3-46 received the greatest number of votes in the last gubernatorial
3-47 election is the same political party with which the presiding judge
3-48 is affiliated.

3-49 SECTION 10. Section 85.009(b), Election Code, is amended to
3-50 read as follows:

3-51 (b) Before July of each year, the county chair of each
3-52 political party holding a primary election in the county shall
3-53 submit in writing to the county clerk a list of names of persons in
3-54 order of preference for each early voting polling place who are
3-55 eligible for selection as an election officer. The county chair
3-56 may supplement the list of names of persons until the 30th day
3-57 before early voting begins in case an appointed election officer
3-58 becomes unable to serve. The county clerk shall appoint the first
3-59 person meeting the applicable eligibility requirements from the
3-60 list submitted in compliance with this subsection by the party with
3-61 the highest number of votes in the county as the presiding judge
3-62 [election officer] of that polling place and the first person
3-63 meeting the applicable eligibility requirements from the list
3-64 submitted in compliance with this subsection by the party with the
3-65 second highest number of votes in the county as the alternate
3-66 presiding judge [election officer] of that polling place. The
3-67 county clerk shall appoint additional election officers for each
3-68 polling place in the manner described by Subsection (a). The
3-69 county clerk may reject the list if the persons whose names are

4-1 submitted on the list are determined not to meet the applicable
4-2 eligibility requirements.

4-3 SECTION 11. Subchapter A, Chapter 85, Election Code, is
4-4 amended by adding Section 85.0091 to read as follows:

4-5 Sec. 85.0091. EARLY VOTING ELECTION OFFICERS FOR PRIMARY
4-6 ELECTIONS. (a) The early voting clerk shall select election
4-7 officers for a primary election for the main early voting polling
4-8 place and any branch polling place in a manner consistent with
4-9 Section 85.009, except that the early voting clerk shall prescribe
4-10 the deadline by which county chairs must submit names of persons
4-11 eligible to serve as election officers during early voting.

4-12 (b) This section does not apply to a joint primary governed
4-13 by Section 172.126.

4-14 SECTION 12. Subchapter A, Chapter 87, Election Code, is
4-15 amended by adding Section 87.006 to read as follows:

4-16 Sec. 87.006. EARLY VOTING BALLOT BOARD MEMBERS: OATH AND
4-17 IDENTIFICATION. (a) A member of the early voting ballot board
4-18 shall repeat the following oath aloud:

4-19 "I swear (or affirm) that I will objectively work to be sure
4-20 every eligible voter's vote is accepted and counted, and that only
4-21 the ballots of those voters who violated the Texas Election Code
4-22 will be rejected. I will make every effort to correctly reflect the
4-23 voter's intent when it can be clearly determined. I will not work
4-24 alone when ballots are present and will work only in the presence of
4-25 a member of a political party different from my own. I will
4-26 faithfully perform my duty as an officer of the election and guard
4-27 the purity of the election."

4-28 (b) A member of the early voting ballot board who arrives
4-29 after the oath is made shall repeat the oath aloud before performing
4-30 any duties as a member.

4-31 (c) Following administration of the oath, each member of the
4-32 early voting ballot board shall be issued a form of identification,
4-33 prescribed by the secretary of state, to be displayed by the member
4-34 during the member's hours of service on the board.

4-35 SECTION 13. Subchapter G, Chapter 87, Election Code, is
4-36 amended by adding Section 87.127 to read as follows:

4-37 Sec. 87.127. RESOLUTION OF INCORRECT DETERMINATION BY EARLY
4-38 VOTING BALLOT BOARD. (a) If a county election officer, as defined
4-39 by Section 31.091, determines a ballot was incorrectly rejected or
4-40 accepted by the early voting ballot board before the time set for
4-41 convening the canvassing authority, the county election officer may
4-42 petition a district court for injunctive or other relief as the
4-43 court determines appropriate.

4-44 (b) In an election ordered by the governor or by a county
4-45 judge, the county election officer must confer with and establish
4-46 the agreement of the county chair of each political party before
4-47 petitioning the district court.

4-48 SECTION 14. Subchapter A, Chapter 127, Election Code, is
4-49 amended by adding Section 127.0015 to read as follows:

4-50 Sec. 127.0015. CENTRAL COUNTING STATION OFFICERS: OATH AND
4-51 IDENTIFICATION. (a) Election officers appointed under this
4-52 subchapter shall repeat the following oath aloud:

4-53 "I swear (or affirm) that I will objectively work to be sure
4-54 every eligible voter's vote is accepted and counted, and that only
4-55 the ballots of those voters who violated the Texas Election Code
4-56 will be rejected. I will make every effort to correctly reflect the
4-57 voter's intent when it can be clearly determined. I will not work
4-58 alone when ballots are present and will work only in the presence of
4-59 a member of a political party different from my own. I will
4-60 faithfully perform my duty as an officer of the election and guard
4-61 the purity of the election."

4-62 (b) An officer who arrives after the oath is made shall
4-63 repeat the oath aloud before performing any duties as an election
4-64 officer.

4-65 (c) Following administration of the oath, each election
4-66 officer shall be issued a form of identification, prescribed by the
4-67 secretary of state, to be displayed by the officer during the
4-68 officer's hours of service at the central counting station.

4-69 SECTION 15. Section 127.004(b), Election Code, is amended

5-1 to read as follows:

5-2 (b) To be eligible for appointment, a person must:
5-3 (1) have the competence, training, and experience
5-4 required for the proper performance of the work assigned; and
5-5 (2) in a county with a population of less than 60,000,
5-6 be a registered voter of the political subdivision served by the
5-7 authority establishing the counting station or an employee of the
5-8 political subdivision that adopts or owns the voting system.

5-9 SECTION 16. Section 127.007, Election Code, is amended by
5-10 adding Subsection (c) to read as follows:

5-11 (c) The plan required under this section must be available
5-12 to the public on request not later than 5 p.m. on the fifth day
5-13 before the date of the election.

5-14 SECTION 17. Sections 32.006(b) and 32.010, Election Code,
5-15 are repealed.

5-16 SECTION 18. This Act takes effect September 1, 2017.

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