

By: Hughes, et al.

S.B. No. 7

(In the Senate - Filed March 11, 2021; March 11, 2021, read first time and referred to Committee on State Affairs; March 29, 2021, reported adversely, with favorable Committee Substitute by the following vote: Yeas 5, Nays 2; March 29, 2021, sent to printer.)

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COMMITTEE SUBSTITUTE FOR S.B. No. 7

By: Hughes

A BILL TO BE ENTITLED
AN ACT

relating to elections, including election integrity and security; creating a criminal offense; providing civil penalties.

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

ARTICLE 1. VOTER REGISTRATION

SECTION 1.01. Chapter 42, Code of Criminal Procedure, is amended by adding Article 42.0194 to read as follows:

Art. 42.0194. FINDING REGARDING FELONY CONVICTION. In the trial of a felony offense, if the defendant is 18 years of age or older and is adjudged guilty of the offense, the court shall:

(1) make an affirmative finding that the person has been found guilty of a felony and enter the affirmative finding in the judgment of the case; and

(2) instruct the defendant regarding how the felony conviction will impact the defendant's right to vote in this state.

SECTION 1.02. Section 13.002, Election Code, is amended by adding Subsection (c-1) to read as follows:

(c-1) A registration application must require the applicant to affirmatively indicate all information provided on the application.

SECTION 1.03. Section 15.028, Election Code, is amended to read as follows:

Sec. 15.028. NOTICE OF UNLAWFUL VOTING OR REGISTRATION ~~[TO PROSECUTOR]~~. ~~[(a)]~~ If the registrar determines that a person who is not eligible to vote may have registered to vote or [a registered voter] voted in an election, the registrar shall execute and deliver to the attorney general, the secretary of state, and the county or district attorney having jurisdiction in the territory covered by the election an affidavit stating the relevant facts.

~~[(b) If the election covers territory in more than one county, the registrar shall also deliver an affidavit to the attorney general.]~~

SECTION 1.04. Section 16.0332(a), Election Code, is amended to read as follows:

(a) After the registrar receives a list under Section 18.068 of this code or Section 62.113, Government Code, of persons excused or disqualified from jury service or otherwise determined to be ineligible to vote because of citizenship status, the registrar shall deliver to each registered voter whose name appears on the list a written notice requiring the voter to submit to the registrar proof of United States citizenship in the form of a certified copy of the voter's birth certificate, United States passport, or certificate of naturalization or any other form prescribed by the secretary of state. The notice shall be delivered by forwardable mail to the mailing address on the voter's registration application and to any new address of the voter known to the registrar.

SECTION 1.05. Section 18.065, Election Code, is amended by amending Subsection (a) and adding Subsections (e), (f), and (g) to read as follows:

(a) The secretary of state shall monitor each registrar for

substantial compliance with Sections 15.083, 16.032, 16.0332, and 18.061 and with rules implementing the statewide computerized voter registration list.

(e) If a registrar fails to correct a violation within 30 days of a notice under Subsection (b), the secretary of state shall correct the violation on behalf of the registrar.

(f) A registrar is liable to this state for a civil penalty of \$100 for each violation corrected by the secretary of state under Subsection (e). The attorney general may bring an action to recover a civil penalty imposed under this section.

(g) A civil penalty collected by the attorney general under this section shall be deposited in the state treasury to the credit of the general revenue fund.

SECTION 1.06. The changes in law made by this article apply only to an application for voter registration submitted on or after the effective date of this Act.

ARTICLE 2. VOTING BY MAIL

SECTION 2.01. Subchapter A, Chapter 84, Election Code, is amended by adding Section 84.0011 to read as follows:

Sec. 84.0011. SOLICITATION OF BALLOT BY MAIL APPLICATIONS PROHIBITED. The early voting clerk may make no attempt to solicit a person to complete an application for an early voting ballot by mail, whether directly or through a third party.

SECTION 2.02. Section 84.002, Election Code, is amended by adding Subsection (c) to read as follows:

(c) An application for a ballot to be voted by mail on the ground of disability must require the applicant to affirmatively indicate that the applicant agrees with the statement "I have a sickness or physical condition that prevents me from appearing at the polling place on election day without a likelihood of needing personal assistance or injuring my health," as prescribed by Section 82.002(a).

SECTION 2.03. Section 84.011(a), Election Code, is amended to read as follows:

(a) The officially prescribed application form for an early voting ballot must include:

(1) immediately preceding the signature space the statement: "I certify that the information given in this application is true, and I understand that giving false information in this application is a state jail felony [crime].";

(2) a statement informing the applicant of the offenses prescribed by Sections 84.003 and 84.004;

(3) spaces for entering an applicant's voter registration number and county election precinct of registration, with a statement informing the applicant that failure to furnish that information does not invalidate the application; and

(4) on an application for a ballot to be voted by mail:

(A) a space for an applicant applying on the ground of absence from the county of residence to indicate the date on or after which the applicant can receive mail at the address outside the county;

(B) a space for indicating the fact that an applicant whose application is signed by a witness cannot make the applicant's mark and a space for indicating the relationship or lack of relationship of the witness to the applicant;

(C) a space for entering an applicant's telephone number, with a statement informing the applicant that failure to furnish that information does not invalidate the application;

(D) a space or box for an applicant applying on the ground of age or disability to indicate that the address to which the ballot is to be mailed is the address of a facility or relative described by Section 84.002(a)(3), if applicable;

(E) a space or box for an applicant applying on the ground of confinement in jail to indicate that the address to which the ballot is to be mailed is the address of a relative

described by Section 84.002(a)(4), if applicable;

(F) a space for an applicant applying on the ground of age or disability to indicate if the application is an application under Section 86.0015;

(G) spaces for entering the signature, printed name, and residence address of any person assisting the applicant;

(H) a statement informing the applicant of the condition prescribed by Section 81.005; and

(I) a statement informing the applicant of the requirement prescribed by Section 86.003(c).

SECTION 2.04. Subchapter A, Chapter 84, Election Code, is amended by adding Section 84.0111 to read as follows:

Sec. 84.0111. PROHIBITION ON DISTRIBUTION OF APPLICATION FORM. (a) Unless authorized by this code, an officer or employee of this state or of a political subdivision of this state may not distribute an application form for an early voting ballot to a person who did not request an application under Section 84.001.

(b) An officer or employee of this state or of a political subdivision of this state may not use public funds to facilitate the distribution by another person of an application form for an early voting ballot to a person who did not request an application under Section 84.001.

SECTION 2.05. Section 84.035, Election Code, is amended to read as follows:

Sec. 84.035. BALLOT SENT TO APPLICANT. (a) If the early voting clerk cancels an application by an applicant to whom an early voting ballot has been sent, the clerk shall:

(1) remove the applicant's name from the early voting roster; and

(2) make any other entries in the records and take any other action necessary to prevent the ballot from being counted if returned.

(b) A person to whom an early voting ballot has been sent who cancels the person's application for a ballot to be voted by mail in accordance with Section 84.032 but fails to return the ballot to be voted by mail to the early voting clerk, deputy early voting clerk, or presiding judge as provided by that section may only vote a provisional ballot under Section 63.011.

SECTION 2.06. Section 86.0015, Election Code, is amended by adding Subsection (b-3) to read as follows:

(b-3) An application for a ballot to be voted by mail on the ground of disability under this section must include or be accompanied by:

(1) written documentation from the United States Social Security Administration or the United States Department of Veterans Affairs evidencing that the applicant has been determined to have a disability; or

(2) a certificate of a licensed physician or chiropractor or accredited Christian Science practitioner in substantially the following form:

"This is to certify that I personally know that _____ has a sickness or physical condition that will prevent him or her from appearing at a polling place without a likelihood of needing personal assistance or of injuring his or her health.

"Witness my hand at _____, Texas, this _____ day of _____, 20_____.

(signature of physician,
chiropractor, or practitioner)

(printed name of physician,
chiropractor, or practitioner)"

SECTION 2.07. Section 86.006, Election Code, is amended by amending Subsections (a) and (e) and adding Subsection (a-2) to read as follows:

(a) A marked ballot voted under this chapter must be returned to the early voting clerk in the official carrier envelope. The carrier envelope may be delivered in another envelope and must be transported and delivered only by:

- (1) mail;
- (2) common or contract carrier; or
- (3) subject to Subsections [~~Subsection~~] (a-1) and (a-2), in-person delivery by the voter who voted the ballot.

(a-2) An in-person delivery of a marked ballot voted under this chapter must be received at the time of delivery by a person. A ballot delivered in violation of this subsection may not be counted.

(e) Carrier envelopes may not be collected and stored at another location for subsequent delivery to the early voting clerk. The secretary of state shall prescribe appropriate procedures to implement this subsection and to provide accountability for the delivery of the carrier envelopes from the voting place to the early voting clerk. A ballot delivered in violation of this subsection may not be counted.

SECTION 2.08. Section 86.011(c), Election Code, is amended to read as follows:

(c) If the return is not timely, the clerk shall enter the time of receipt on the carrier envelope and retain it in a locked container for the period for preserving the precinct election records. The clerk shall destroy the unopened envelope and its contents after the preservation period.

SECTION 2.09. Chapter 86, Election Code, is amended by adding Section 86.015 to read as follows:

Sec. 86.015. ELECTRONIC TRACKING OF APPLICATION FOR BALLOT VOTED BY MAIL OR BALLOT VOTED BY MAIL. (a) The secretary of state shall develop or otherwise provide an online tool to each early voting clerk that enables a person who submits an application for a ballot to be voted by mail to track the location and status of the person's application and ballot on the secretary's Internet website and on the county's Internet website if the early voting clerk is the county clerk of a county that maintains an Internet website.

(b) The online tool developed or provided under Subsection (a) must require the voter to provide, before permitting the voter to access information described by that subsection:

(1) the voter's name and registration address and the last four digits of the voter's social security number; and

(2) the voter's:

(A) driver's license number; or

(B) personal identification card number issued by the Department of Public Safety.

(c) An online tool used under this section must update the applicable Internet website as soon as practicable after each of the following events occurs:

(1) receipt by the early voting clerk of the person's application for a ballot to be voted by mail;

(2) acceptance or rejection by the early voting clerk of the person's application for a ballot to be voted by mail;

(3) placement in the mail by the early voting clerk of the person's official ballot;

(4) receipt by the early voting clerk of the person's marked ballot; and

(5) acceptance or rejection by the early voting ballot board of a person's marked ballot.

(d) The secretary of state shall adopt rules and prescribe procedures as necessary to implement this section.

SECTION 2.10. Section 87.027(i), Election Code, is amended to read as follows:

(i) The signature verification committee shall compare the signature on each carrier envelope certificate, except those signed for a voter by a witness, with the signature on the voter's ballot

application to determine whether the signatures are those of the voter. The committee may also compare the signatures with any known signature [~~two or more signatures~~] of the voter [~~made within the preceding six years and~~] on file with the county clerk or voter registrar to determine whether the signatures are those of the voter. Except as provided by Subsection (1), a determination under this subsection that the signatures are not those of the voter must be made by a majority vote of the committee's membership. The committee shall place the jacket envelopes, carrier envelopes, and applications of voters whose signatures are not those of the voter in separate containers from those of voters whose signatures are those of the voter. The committee chair shall deliver the sorted materials to the early voting ballot board at the time specified by the board's presiding judge.

SECTION 2.11. Section 87.041(e), Election Code, is amended to read as follows:

(e) In making the determination under Subsection (b)(2), the board may also compare the signatures with any known signature [~~two or more signatures~~] of the voter [~~made within the preceding six years and~~] on file with the county clerk or voter registrar to determine whether the signatures are those of the voter.

SECTION 2.12. Sections 87.062(a) and (c), Election Code, are amended to read as follows:

(a) On the direction of the presiding judge, the early voting ballot board, in accordance with Section 85.032(b), shall open the containers [~~container~~] for the early voting ballots that are to be counted by the board, remove the contents from each [~~the~~] container, and remove any ballots enclosed in ballot envelopes from their envelopes.

(c) Ballots voted by mail shall be tabulated separately from the ballots voted by personal appearance and shall be separately reported on the returns [~~The results of all early voting ballots counted by the board under this subchapter shall be included in the same return~~].

SECTION 2.13. Section 87.103, Election Code, is amended to read as follows:

Sec. 87.103. COUNTING BALLOTS AND PREPARING RETURNS. (a) The early voting electronic system ballots counted at a central counting station, the ballots cast at precinct polling places, and the ballots voted by mail shall be tabulated separately [~~from the ballots cast at precinct polling places~~] and shall be separately reported on the returns.

(b) The early voting returns prepared at the central counting station must include any early voting results obtained by the early voting ballot board under Subchapter [~~Subchapters~~] D [~~and E~~].

SECTION 2.14. Section 87.126, Election Code, is amended by adding Subsection (a-1) to read as follows:

(a-1) Electronic records made under this section shall record both sides of any application, envelope, or ballot recorded, and all such records shall be provided to the early voting ballot board, the signature verification committee, or both.

SECTION 2.15. The changes in law made by this article apply only to an application for an early voting ballot to be voted by mail that is submitted on or after the effective date of this Act.

ARTICLE 3. ELECTION SECURITY

SECTION 3.01. Section 33.006(b), Election Code, is amended to read as follows:

- (b) A certificate of appointment must:
- (1) be in writing and signed by the appointing authority or, for an appointment for a write-in candidate under Section 33.004, by each of the voters making the appointment;
 - (2) indicate the capacity in which the appointing authority is acting;
 - (3) state the name, residence address, and voter

registration number of the appointee and be signed by the appointee;

(4) identify the election and the precinct polling place or other location at which the appointee is to serve; and

(5) in an election on a measure, identify the measure if more than one is to be voted on and state which side of the measure the appointee represents[; ~~and~~

~~[(6) contain an affidavit executed by the appointee stating that the appointee will not have possession of a device capable of recording images or sound or that the appointee will disable or deactivate the device while serving as a watcher].~~

SECTION 3.02. Section 33.051(c), Election Code, is amended to read as follows:

(c) ~~[A watcher may not be accepted for service if the watcher has possession of a device capable of recording images or sound unless the watcher agrees to disable or deactivate the device.]~~ The presiding judge may inquire whether a watcher has possession of a [any prohibited] recording device before accepting the watcher for service.

SECTION 3.03. Section 33.056, Election Code, is amended by amending Subsection (a) and adding Subsections (e) and (f) to read as follows:

(a) Except as provided by Section 33.057, a watcher is entitled to observe any activity conducted at the location at which the watcher is serving. A watcher is entitled to sit or stand ~~[conveniently]~~ near enough to see and hear the election officers conducting the observed activity, except as otherwise prohibited by this chapter.

(e) Except as provided by Section 33.057(b), a watcher may not be denied free movement within the location at which the watcher is serving.

(f) In this code, a watcher who is entitled to "observe" an activity is entitled to sit or stand near enough to see and hear the activity.

SECTION 3.04. Section 33.061, Election Code, is amended by adding Subsection (c) to read as follows:

(c) An offense under Subsection (a) includes an action taken to distance or obstruct the view of a watcher in a way that makes observation reasonably ineffective.

SECTION 3.05. Section 43.007, Election Code, is amended by amending Subsection (m) and adding Subsections (m-1), (m-2), and (q) to read as follows:

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

(1) in a county with a population of less than one million:

(A) each county commissioners precinct contains at least one countywide polling place; and

(B) the deviation in the percentage of the total number of countywide polling places located in a commissioners precinct does not vary by more than one percentage point in a precinct; and

(2) in a county with a population of one million or more, the number of polling places located in each state representative district included in the territory of the county is calculated by dividing the number of voters residing in that district by the total number of voters residing in the county and using the number generated as a percentage to allocate the same percentage of polling place locations, rounding up to the nearest whole number, if necessary [the total number of permanent branch and temporary branch polling places open for voting in a county commissioners precinct does not exceed more than twice the number of permanent branch and temporary branch polling places in another county commissioners precinct].

(m-1) In making a calculation under Subsection (m), voter

data from the most recent election shall be used.

(m-2) Election officials and voting equipment, materials, and supplies must be allocated to each polling place based on the same percentage as polling place locations are determined under Subsection (m) with no greater than a five percent deviation in the allocation between polling place locations. Each polling place location must be able to accommodate 100 percent of the equipment allocated to be operational at the same time.

(q) Each countywide polling place in a county must have approximately the same number of voting machines as each other countywide polling place in the county.

SECTION 3.06. Section 43.031(b), Election Code, is amended to read as follows:

(b) Each polling place shall be located inside a building. A polling place may not be located in a tent or other temporary moveable structure or in a facility primarily designed for motor vehicles. No voter may cast a vote from inside a motor vehicle unless the voter meets the requirements of Section 64.009.

SECTION 3.07. Section 61.014, Election Code, is amended by amending Subsections (a) and (b) and adding Subsection (b-1) to read as follows:

(a) A person, other than a watcher using the device solely to record image or sound as permitted under Subsection (b), may not use a wireless communication device within 100 feet of a voting station.

(b) A person, other than a watcher, may not use a [any] mechanical or electronic device to record [means of recording] images or sound at a polling place. A watcher may use such a device to record images or sound at a polling place, except that a watcher may record activity [within 100 feet] of a voter at a voting station only if the voter is receiving assistance the watcher reasonably believes to be unlawful.

(b-1) A recording made by a watcher under Subsection (b) may not capture or record any information on a voter's ballot.

SECTION 3.08. Section 64.007(c), Election Code, is amended to read as follows:

(c) An election officer shall maintain a register of spoiled ballots at the polling place, including spoiled ballots from a direct recording electronic voting unit. An election officer shall enter on the register the name of each voter who returns a spoiled ballot and the spoiled ballot's number.

SECTION 3.09. Section 64.009, Election Code, is amended by amending Subsection (b) and adding Subsections (b-1), (e), (f), (g), and (h) to read as follows:

(b) The regular voting procedures, except those in Subchapter B, may be modified by the election officer to the extent necessary to conduct voting under this section.

(b-1) A person other than the voter is only permitted to be inside the motor vehicle while the voter votes if the person would be entitled to accompany the voter to the voting station under other law.

(e) Except as provided by Section 33.057, a poll watcher is entitled to observe any activity conducted under this section.

(f) A person who assists three or more voters voting under this section by providing the voters with transportation to the polling place must complete and sign a form that contains the person's name and address and whether the person is providing assistance solely under this section or under both this section and Subchapter B.

(g) A form completed under Subsection (f) shall be delivered to the secretary of state as soon as practicable. The secretary shall retain a form delivered under this section for the period for preserving the precinct election records and shall make the form available to the attorney general for inspection upon request.

(h) The secretary of state shall prescribe the form

described by Subsection (f).

SECTION 3.10. Subchapter B, Chapter 64, Election Code, is amended by adding Section 64.0322 to read as follows:

Sec. 64.0322. SUBMISSION OF FORM BY ASSISTANT. (a) A person, other than an election officer, who assists a voter in accordance with this chapter is required to complete a form stating:

- (1) the name and address of the person assisting the voter;
- (2) the manner in which the person assisted the voter;
- (3) the reason the assistance was necessary; and
- (4) the relationship of the assistant to the voter.

(b) The secretary of state shall prescribe the form required by this section. The form must be incorporated into the official carrier envelope if the voter is voting an early voting ballot by mail and receives assistance under Section 86.010, or must be submitted to an election officer at the time the voter casts a ballot if the voter is voting at a polling place or under Section 64.009.

SECTION 3.11. Section 66.052, Election Code, is amended to read as follows:

Sec. 66.052. DELIVERY BY ELECTION CLERK; CHAIN OF CUSTODY. (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) The presiding judge or an election clerk designated by the presiding judge under this section must keep records of each person that has custody of a precinct election record until the records are delivered.

SECTION 3.12. Sections 66.058(b) and (g), Election Code, are amended to read as follows:

(b) For a period of at least 60 days after the date of the election, or until any election contest is resolved, whichever is longer, the voted ballots shall be preserved securely in a locked room in the locked ballot box in which they are delivered to the general custodian of election records. On the 61st day after election day, or the day an election contest is resolved, whichever is later, the general custodian of election records may:

(1) require a person who has possession of a key that operates the lock on a ballot box containing voted ballots to return the key to the custodian; and

(2) unlock the ballot box and transfer the voted ballots to another secure container for the remainder of the preservation period.

(g) Electronic records created under Chapter 129 shall be preserved in a secure container. An electronic device used to store records may not be altered in any manner as to delete or overwrite the records during the preservation period.

SECTION 3.13. Section 85.005, Election Code, is amended to read as follows:

Sec. 85.005. REGULAR DAYS AND HOURS FOR VOTING. (a) Except as provided by Subsection (c), in an election in which a county clerk [or city secretary] is the early voting clerk under Section 83.002 [or 83.005], early voting by personal appearance at the main early voting polling place shall be conducted on each weekday of [the weekdays of] the early voting period that is not a legal state holiday and for a period of at least nine hours, except that voting may not be conducted earlier than 6 a.m. or later than 9 p.m. [during the hours that the county clerk's or city secretary's main business office is regularly open for business.]

(b) In an election to which Subsection (a) does not apply, early voting by personal appearance at the main early voting polling place shall be conducted at least nine [eight] hours each weekday of the early voting period that is not a legal state holiday unless the territory covered by the election has fewer than 1,000

registered voters. In that case, the voting shall be conducted at least four [~~three~~] hours each day. The authority ordering the election, or the county clerk if that person is the early voting clerk, shall determine which hours the voting is to be conducted.

(c) In a county with a population of 30,000 [~~100,000~~] or more, the voting in a primary election or the general election for state and county officers shall be conducted at the main early voting polling place for [~~at least~~] 12 hours on each weekday of the last week of the early voting period, and the voting in a special election ordered by the governor shall be conducted at the main early voting polling place for [~~at least~~] 12 hours on each of the last two days of the early voting period. Voting under this subsection may not be conducted earlier than 6 a.m. or later than 9 p.m. Voting shall be conducted in accordance with this subsection in those elections in a county with a population under 30,000 [~~100,000~~] on receipt by the early voting clerk of a written request for the extended hours submitted by at least 15 registered voters of the county. The request must be submitted in time to enable compliance with Section 85.067.

~~[(d) In an election ordered by a city, early voting by personal appearance at the main early voting polling place shall be conducted for at least 12 hours:~~

~~[(1) on one weekday, if the early voting period consists of less than six weekdays; or~~

~~[(2) on two weekdays, if the early voting period consists of six or more weekdays.]~~

SECTION 3.14. Section 85.006(b), Election Code, is amended to read as follows:

(b) In an election in which a county clerk [~~or city secretary~~] is the early voting clerk under Section 83.002 [~~or 83.005~~], only the early voting clerk may order voting on a Saturday or Sunday. The clerk must do so by written order.

SECTION 3.15. Section 85.010(a-1), Election Code, is amended to read as follows:

(a-1) In this section, "eligible county polling place" means an early voting polling place [~~, other than a polling place established under Section 85.062(e),~~] established by a county.

SECTION 3.16. Section 85.061(a), Election Code, is amended to read as follows:

(a) In a countywide election in which the county clerk is the early voting clerk under Section 83.002, an early voting polling place shall be located inside [~~at~~] each branch office that is regularly maintained for conducting general clerical functions of the county clerk, except as provided by Subsection (b). If a suitable room is unavailable inside the branch office, the polling place may be located in another room inside the same building as the branch office. The polling place may not be located in a tent or other temporary movable structure or a parking garage, parking lot, or similar facility designed primarily for motor vehicles.

SECTION 3.17. Section 85.062(b), Election Code, is amended to read as follows:

(b) A polling place established under this section may be located, subject to Subsection (d), at any place in the territory served by the early voting clerk and may be located inside [~~in~~] any building [~~stationary structure~~] as directed by the authority establishing the branch office. The polling place may not be located in a tent or other temporary movable structure or a parking garage, parking lot, or similar facility designed primarily for motor vehicles in the general election for state and county officers, general primary election, or runoff primary election. Ropes or other suitable objects may be used at the polling place to ensure compliance with Section 62.004. Persons who are not expressly permitted by law to be in a polling place shall be excluded from the polling place to the extent practicable.

SECTION 3.18. Section 124.002, Election Code, is amended by

adding Subsection (c) to read as follows:

(c) Voting system ballots may not be arranged in a manner that allows a political party's candidates to be selected in one motion or gesture.

SECTION 3.19. Subchapter A, Chapter 125, Election Code, is amended by adding Section 125.0071 to read as follows:

Sec. 125.0071. VOTER ALLOWED TO CAST BALLOT AT ANY TIME. A voting machine or ballot marking device must allow a voter the option to cast or complete the voter's ballot without voting on all races or measures if the voter affirmatively chooses to do so.

SECTION 3.20. Subchapter A, Chapter 127, Election Code, is amended by adding Section 127.008 to read as follows:

Sec. 127.008. ELECTRONIC DEVICES IN CENTRAL COUNTING STATION. (a) A counting station manager and the presiding judge of the counting station shall develop a protocol under which any electronic device inside a central counting station that is necessary to count votes is equipped with software that tracks all input and activity on the electronic device.

(b) The counting station manager and the presiding judge of the counting station shall ensure that the input and activity tracked by the software is printed and delivered to the secretary of state not later than the fifth day after vote counting is complete.

SECTION 3.21. Section 127.1232, Election Code, is amended to read as follows:

Sec. 127.1232. SECURITY OF VOTED BALLOTS. (a) The general custodian of election records shall post a licensed peace officer [guard] to ensure the security of ballot boxes containing voted ballots throughout the period of tabulation at the central counting station.

(b) The general custodian of election records may implement a video surveillance system that retains a record of all areas containing voted ballots from the time the voted ballots are delivered to the central counting station until the canvass of precinct election returns. The video may be made available to the public by a livestream.

(c) The video recorded is an election record under Section 1.012 and shall be retained by the general custodian of election records until the end of the calendar year in which an election is held or until an election contest filed in the county has been resolved, whichever is later.

SECTION 3.22. Subchapter A, Chapter 129, Election Code, is amended by adding Section 129.003 to read as follows:

Sec. 129.003. PAPER AUDIT TRAIL REQUIRED. (a) In this section, "auditable voting system" means a voting system that:

(1) uses a paper record; or

(2) produces a paper record by which a voter can verify that the voter's ballot will be counted accurately.

(b) Except as provided by Subsection (e), a voting system that consists of direct recording electronic voting machines may not be used in an election unless the system is an auditable voting system.

(c) Except for a recount under Title 13, the electronic vote is the official record of the ballot. For a recount of ballots cast on a system involving direct recording electronic voting machines, the paper record is the official record of the vote cast.

(d) An authority that purchased a voting system other than an auditable voting system after September 1, 2016, and before September 1, 2021, may use available federal funding and, if federal funding is not available, available state funding to retrofit the purchased voting system as an auditable voting system in accordance with the following schedule:

(1) if the voting system was retrofitted as an auditable voting system not later than the election taking place November 8, 2022, the authority is eligible to have 100 percent of the cost of retrofitting reimbursed under this section; and

(2) if the authority is not eligible for a 100 percent reimbursement of cost under Subdivision (1) and the voting system was retrofitted as an auditable voting system not later than the election taking place November 3, 2026, the authority is eligible to have 50 percent of the cost of retrofitting reimbursed under this section.

(e) Subsections (a)-(c) do not apply to an election held before September 1, 2026.

SECTION 3.23. Section 129.023, Election Code, is amended by adding Subsections (b-2) and (c-1) to read as follows:

(b-2) If the test is being conducted for an election in which a county election board has been established under Section 51.002, the general custodian of election records shall notify each member of the board of the test at least 48 hours before the date of the test. If the county election board chooses to witness the test, each member shall sign the statement required by Subsection (e)(1).

(c-1) A test conducted under this section must also require the general custodian of election records to demonstrate, using a representative sample of voting system equipment, that the source code of the equipment has not been altered.

SECTION 3.24. Section 216.001, Election Code, is amended to read as follows:

Sec. 216.001. APPLICABILITY OF CHAPTER. (a) Except as provided by Subsection (b), this [This] chapter applies only to an election that results in a tie vote as provided by Sections 2.002(i), 2.023(b) and (c), and 2.028.

(b) If the results of an election show that the number of votes cast in an election precinct exceeds the number of registered voters in the precinct, the authority designated under Section 212.026 shall initiate an automatic recount for that precinct in accordance with this chapter.

SECTION 3.25. Section 81.032, Local Government Code, is amended to read as follows:

Sec. 81.032. ACCEPTANCE OF DONATIONS AND BEQUESTS. (a) The commissioners court may accept a donation of labor or services, gift, grant, donation, bequest, or devise of money or other property on behalf of the county, including a donation under Chapter 38, Government Code, for the purpose of performing a function conferred by law on the county or a county officer.

(b) The commissioners court may not accept a donation described in Subsection (a) of over \$1,000 for use in administering elections without the written consent of the secretary of state.

(c) The secretary of state may grant consent under Subsection (b) only if:

(1) the secretary consults with the governor, the lieutenant governor, and the speaker of the house of representatives on the proposed donation; and

(2) the governor, the lieutenant governor, and the speaker of the house of representatives unanimously agree to the secretary's grant of consent.

SECTION 3.26. The changes in law made by this article apply only to an election ordered on or after the effective date of this Act. An election ordered before the effective date of this Act is governed by the law in effect when the election was ordered, and the former law is continued in effect for that purpose.

ARTICLE 4. ENFORCEMENT

SECTION 4.01. Subchapter E, Chapter 31, Election Code, is amended by adding Sections 31.126 and 31.127 to read as follows:

Sec. 31.126. RESTRICTION ON ELIGIBILITY. (a) In this section, "election official" means:

- (1) a county clerk;
- (2) a permanent or temporary deputy county clerk;
- (3) an elections administrator;
- (4) a permanent or temporary employee of an elections administrator;

- (5) an election judge;
- (6) an alternate election judge;
- (7) an early voting clerk;
- (8) a deputy early voting clerk;
- (9) an election clerk;
- (10) the presiding judge of an early voting ballot

board;

- (11) the alternate presiding judge of an early voting

ballot board;

- (12) a member of an early voting ballot board;
- (13) the chair of a signature verification committee;
- (14) the vice chair of a signature verification

committee;

- (15) a member of a signature verification committee;
- (16) the presiding judge of a central counting

station;

- (17) the alternate presiding judge of a central

counting station;

- (18) a central counting station manager;
- (19) a central counting station clerk;
- (20) a tabulation supervisor; and
- (21) an assistant to a tabulation supervisor.

(b) A person may not serve as an election official if the person has been finally convicted of an offense under Section 33.061.

Sec. 31.127. CIVIL PENALTY. (a) In this section, "election official" has the meaning assigned by Section 31.126.

(b) An election official may be liable to this state for a civil penalty if the official:

(1) is employed by or is an officer of this state or a political subdivision of this state; and

(2) violates a provision of this code.

(c) A civil penalty imposed under this section may include termination of the person's employment and loss of the person's employment benefits.

SECTION 4.02. Section 33.051, Election Code, is amended by adding Subsection (g) to read as follows:

(g) An election officer commits an offense if the officer knowingly refuses to accept a watcher for service whose acceptance is required by this code. An offense under this section is a Class A misdemeanor.

SECTION 4.03. Subchapter C, Chapter 33, Election Code, is amended by adding Section 33.062 to read as follows:

Sec. 33.062. INJUNCTIVE RELIEF. A watcher, or the appointing authority for a watcher, is entitled to injunctive relief under Section 273.081 to enforce this chapter, including issuance of temporary orders.

SECTION 4.04. Section 87.0431(b), Election Code, is amended to read as follows:

(b) The early voting clerk shall, not later than the 30th day after election day, deliver notice to the attorney general, including certified copies of the carrier envelope and corresponding ballot application, of any ballot rejected because:

- (1) the voter was deceased;
- (2) the voter already voted in person in the same

election;

- (3) the signatures on the carrier envelope and ballot application were not executed by the same person;

(4) the carrier envelope certificate lacked a witness signature; [or]

(5) the carrier envelope certificate was improperly executed by an assistant; or

- (6) any form of voter fraud was committed.

SECTION 4.05. Section 232.006(a), Election Code, is amended to read as follows:

(a) The venue of an election contest for a statewide office is in Travis County or any county where a contestee resided at the time of the election. For purposes of this section, a contestee's residence is determined under Section 411.0257, Government Code.

SECTION 4.06. Chapter 232, Election Code, is amended by adding Subchapter C to read as follows:

SUBCHAPTER C. CONTEST INVOLVING ALLEGED FRAUD

Sec. 232.061. PETITION ALLEGING FRAUD. This subchapter applies to an election contest in which the contestant alleges in the petition that an opposing candidate, an agent of the opposing candidate, or a person acting on behalf of the opposing candidate with the candidate's knowledge committed election fraud under any of the following sections of this code:

- (1) Section 13.007;
- (2) Section 64.012;
- (3) Section 64.036;
- (4) Section 84.003;
- (5) Section 84.0041;
- (6) Section 86.0051;
- (7) Section 86.006;
- (8) Section 86.010; or
- (9) Section 276.013.

Sec. 232.062. EVIDENTIARY STANDARD. A contestant must prove an allegation described by Section 232.061 by a preponderance of the evidence.

Sec. 232.063. CIVIL PENALTY. (a) If the court in its judgment finds that the contestee, an agent of the contestee, or a person acting on behalf of the contestee with the contestee's knowledge committed one or more violations of a section described by Section 232.061, the contestee is liable to this state for a civil penalty of \$1,000 for each violation.

(b) A penalty collected under this section by the attorney general shall be deposited in the state treasury to the credit of the general revenue fund.

Sec. 232.064. ATTORNEY'S FEES. In an election contest to which this subchapter applies, the court may award reasonable attorney's fees to the prevailing party.

SECTION 4.07. (a) The changes in law made by this article apply only to an election contest for which the associated election occurred after the effective date of this Act.

(b) The changes in law made by this article apply only to an election ordered on or after the effective date of this Act. An election ordered before the effective date of this Act is governed by the law in effect when the election was ordered, and the former law is continued in effect for that purpose.

ARTICLE 5. REPEALER AND EFFECTIVE DATE

SECTION 5.01. Section 85.062(e), Election Code, is repealed.

SECTION 5.02. The secretary of state is required to implement Section 86.015, Election Code, as added by this Act, only if the legislature appropriates money specifically for that purpose. If the legislature does not appropriate money specifically for that purpose, the secretary of state may, but is not required to, implement Section 86.015, Election Code, using other appropriations available for that purpose.

SECTION 5.03. Subject to Section 5.02 of this Act, this Act takes effect September 1, 2021.

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