

CONFERENCE COMMITTEE REPORT FORM

Austin, Texas


May 30, 2009  
Date

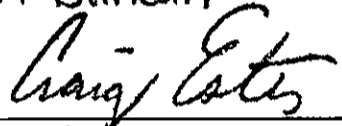
Honorable David Dewhurst  
President of the Senate

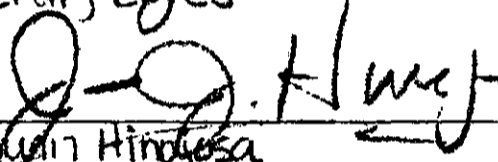
Honorable Joe Straus  
Speaker of the House of Representatives

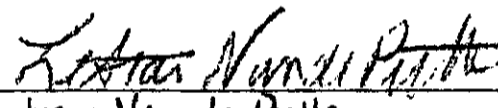
Sirs:


We, Your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on SB 1970 have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

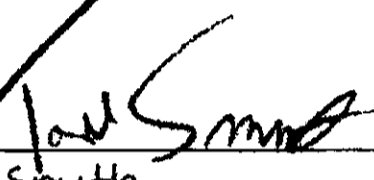
  
Robert Duncan

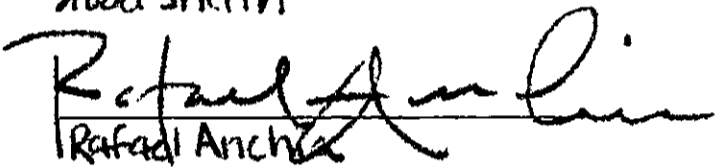
  
Craig Estes

  
Juan Hinojosa

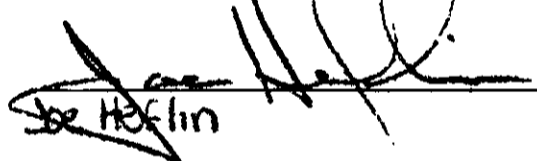
  
Leticia Van de Putte

  
On the part of the Senate  
Tommy Williams

  
Todd Smith

  
Rafael Ancheta

Donayre Bohac

  
Joe Heflin

On the part of the House  
Harvey Hilderbran

Note to Conference Committee Clerk:

Please type the names of the members of the Conference Committee under the lines provided for signature. Those members desiring to sign the report should sign each of the six copies. Attach a copy of the Conference Committee Report and a Section by Section side by side comparison to each of the six reporting forms. The original and two copies are filed in house of origin of the bill, and three copies in the other house.

# CONFERENCE COMMITTEE REPORT

3<sup>rd</sup> Printing

S.B. No. 1970

A BILL TO BE ENTITLED

1 AN ACT  
2 relating to certain election practices and procedures; providing  
3 penalties.

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

5 SECTION 1. Subsection (a), Section 2.051, Election Code, is  
6 amended to read as follows:

7 (a) Except as provided by Sections 2.055 and 2.056, this  
8 subchapter applies only to an election for officers of a political  
9 subdivision other than a county in which write-in votes may be  
10 counted only for names appearing on a list of write-in candidates  
11 and in which[+

12 [~~1~~] each candidate for an office that is to appear on  
13 the ballot is unopposed, except as provided by Subsection (b) [~~+~~ and

14 [~~2~~ no proposition is to appear on the ballot]. For  
15 purposes of this section, a special election of a political  
16 subdivision is considered to be a separate election with a separate  
17 ballot from:

18 (1) a general election for officers of the political  
19 subdivision held at the same time as the special election; or

20 (2) another special election of the political  
21 subdivision held at the same time as the special election.

22 SECTION 2. Section 2.053, Election Code, is amended to read  
23 as follows:

24 Sec. 2.053. ACTION ON CERTIFICATION. (a) On receipt of

1 the certification, the governing body of the political subdivision  
2 by order or ordinance may declare each unopposed candidate elected  
3 to the office. If no election is to be held on election day by the  
4 political subdivision, a copy of the order or ordinance shall be  
5 posted on election day at each polling place used or that would have  
6 been used in the election.

7 (b) If a declaration is made under Subsection (a), the  
8 election is not held. [~~A copy of the order or ordinance shall be~~  
9 ~~posted on election day at each polling place that would have been~~  
10 ~~used in the election.~~]

11 (c) The ballots used at a separate election held at the same  
12 time as an election that would have been held if the candidates were  
13 not declared elected under this section shall include the offices  
14 and names of the candidates declared elected under this section  
15 listed separately after the measures or contested races in the  
16 separate election under the heading "Unopposed Candidates Declared  
17 Elected." The candidates shall be grouped in the same relative  
18 order prescribed for the ballot generally. No votes are cast in  
19 connection with the candidates.

20 (d) The secretary of state by rule may prescribe any  
21 additional procedures necessary to accommodate a particular voting  
22 system or ballot style and to facilitate the efficient and  
23 cost-effective implementation of this section.

24 (e) A certificate of election shall be issued to each  
25 candidate in the same manner and at the same time as provided for a  
26 candidate elected at the election. The candidate must qualify for  
27 the office in the same manner as provided for a candidate elected at

1 the election.

2 SECTION 3. Subsection (a), Section 2.054, Election Code, is  
3 amended to read as follows:

4 (a) In an election that may be subject to this subchapter, a  
5 [A] person commits an offense if by intimidation or by means of  
6 coercion the person influences or attempts to influence a person  
7 to:

8 (1) not file an application for a place on the ballot  
9 or a declaration of write-in candidacy; or

10 (2) withdraw as a candidate [~~in an election that may be~~  
11 ~~subject to this subchapter~~].

12 SECTION 4. Chapter 2, Election Code, is amended by adding  
13 Subchapter D to read as follows:

14 SUBCHAPTER D. CANCELLATION OF ELECTIONS

15 Sec. 2.081. CANCELLATION OF MOOT MEASURE. (a) If an  
16 authority that orders an election on a measure determines that the  
17 action to be authorized by the voters may not be taken, regardless  
18 of the outcome of the election, the authority may declare the  
19 measure moot and remove the measure from the ballot.

20 (b) If a measure is declared moot under this section and is  
21 removed from the ballot, the authority holding the election shall  
22 post notice of the declaration during early voting by personal  
23 appearance and on election day, at each polling place that would  
24 have been used for the election on the measure.

25 Sec. 2.082. SPECIFIC AUTHORITY FOR CANCELLATION REQUIRED.  
26 An authority that orders an election may cancel the election only if  
27 the power to cancel the election is specifically provided by

1 statute.

2 SECTION 5. Subsection (a), Section 4.004, Election Code, is  
3 amended to read as follows:

4 (a) The notice of a general or special election must state:

5 (1) the nature and date of the election;

6 (2) except as provided by Subsection (c), the location  
7 of each polling place, including each early voting polling place;

8 (3) the hours that the polls will be open; and

9 (4) any other information required by other law.

10 SECTION 6. Subsection (a), Section 16.031, Election Code,  
11 is amended to read as follows:

12 (a) The registrar shall cancel a voter's registration  
13 immediately on receipt of:

14 (1) notice under Section 13.072(b) or 15.021 or a  
15 response under Section 15.053 that the voter's residence is outside  
16 the county;

17 (2) an abstract of the voter's death certificate under  
18 Section 16.001(a) or an abstract of an application indicating that  
19 the voter is deceased under Section 16.001(b);

20 (3) an abstract of a final judgment of the voter's  
21 total mental incapacity, partial mental incapacity without the  
22 right to vote, conviction of a felony, or disqualification under  
23 Section 16.002, 16.003, or 16.004;

24 (4) notice under Section 112.012 that the voter has  
25 applied for a limited ballot in another county;

26 (5) notice from a voter registration official in  
27 another state that the voter has registered to vote outside this

1 state; [~~or~~]

2 (6) notice from the early voting clerk under Section  
3 101.0041 that a federal postcard application submitted by an  
4 applicant states a voting residence address located outside the  
5 registrar's county; or

6 (7) notice from the secretary of state that the voter  
7 has registered to vote in another county, as determined by the  
8 voter's driver's license number or personal identification card  
9 number issued by the Department of Public Safety or social security  
10 number.

11 SECTION 7. Section 67.010, Election Code, is amended by  
12 adding Subsection (d) to read as follows:

13 (d) The presiding officer may make a clerical correction to  
14 the officially canvassed returns based on any authorized amended  
15 county canvass filed with the presiding officer.

16 SECTION 8. Subsection (e), Section 85.001, Election Code,  
17 is amended to read as follows:

18 (e) For an election held on the uniform election date in May  
19 and any resulting runoff election, the period for early voting by  
20 personal appearance begins on the 12th day before election day and  
21 continues through the fourth day before election day.

22 SECTION 9. Section 85.004, Election Code, is amended to  
23 read as follows:

24 Sec. 85.004. PUBLIC NOTICE OF [~~MAIN~~] POLLING PLACE  
25 LOCATION. The election order and the election notice must state the  
26 location of each [~~the main~~] early voting polling place.

27 SECTION 10. Chapter 101, Election Code, is amended by

1 adding Section 101.0041 to read as follows:

2       Sec. 101.0041. ACTION BY EARLY VOTING CLERK ON CERTAIN  
3 APPLICATIONS. The early voting clerk shall notify the voter  
4 registrar of a federal postcard application submitted by an  
5 applicant that states a voting residence address located outside  
6 the registrar's county.

7       SECTION 11. Subsection (a), Section 112.002, Election Code,  
8 is amended to read as follows:

9       (a) After changing residence to another county, a person is  
10 eligible to vote a limited ballot by personal appearance during the  
11 early voting period or by mail if:

12           (1) the person would have been eligible to vote in the  
13 county of former residence on election day if still residing in that  
14 county;

15           (2) the person is [~~was~~] registered to vote in the  
16 county of former residence at the time the person offers to vote in  
17 the county of new [~~when the voter changed~~] residence; and

18           (3) a voter registration for the person in the county  
19 of new residence is not effective on or before election day.

20       SECTION 12. Subchapter A, Chapter 125, Election Code, is  
21 amended by adding Section 125.010 to read as follows:

22       Sec. 125.010. PRESENCE OF VOTING SYSTEM TECHNICIAN  
23 AUTHORIZED. (a) In this section, "voting system technician" means  
24 a person who as a vocation repairs, assembles, maintains, or  
25 operates voting system equipment.

26       (b) On the request of the authority holding the election, a  
27 voting system technician may be present at a polling place, a

1 meeting of the early voting ballot board, or a central counting  
2 station for the purpose of repairing, assembling, maintaining, or  
3 operating voting system equipment.

4 SECTION 13. Subchapter B, Chapter 141, Election Code, is  
5 amended by adding Section 141.040 to read as follows:

6 Sec. 141.040. NOTICE OF DEADLINES. Not later than the 30th  
7 day before the first day on which a candidate may file an  
8 application for a place on the ballot under this subchapter, the  
9 authority with whom the application must be filed shall post notice  
10 of the dates of the filing period in a public place in a building in  
11 which the authority has an office.

12 SECTION 14. Subsection (a), Section 146.0301, Election  
13 Code, as amended by Chapters 1107 (H.B. 2309) and 1109 (H.B. 2339),  
14 Acts of the 79th Legislature, Regular Session, 2005, is reenacted  
15 to read as follows:

16 (a) A write-in candidate may not withdraw from the election  
17 after the 67th day before election day.

18 SECTION 15. Subsection (b), Section 172.116, Election Code,  
19 is amended to read as follows:

20 (b) The committee shall convene to conduct the local canvass  
21 at the county seat [~~not earlier than 6 p.m.~~] on the second Thursday  
22 [~~or later than 1 p.m. on the second Friday~~] after election day at  
23 the hour specified by the county chair.

24 SECTION 16. Section 172.120, Election Code, is amended by  
25 amending Subsection (b) and adding Subsection (b-1) to read as  
26 follows:

27 (b) The state executive committee shall convene to conduct



1 the state canvass for the general primary election not later than:

2           (1) ~~[on]~~ the second Sunday ~~[Wednesday]~~ after general  
3 primary election day, for an election in which three or more  
4 candidates are seeking election to the same office; or

5           (2) the 22nd day after general primary election day,  
6 for an election not described by Subdivision (1).

7           **(b-1)** Not later than the third ~~[second]~~ Saturday after  
8 runoff primary election day, the committee shall convene at the  
9 call of the state chair to conduct the state canvass of the runoff  
10 primary election.

11           SECTION 17. Section 192.031, Election Code, is amended to  
12 read as follows:

13           Sec. 192.031. PARTY CANDIDATE'S ENTITLEMENT TO PLACE ON  
14 BALLOT. (a) A political party is entitled to have the names of its  
15 nominees for president and vice-president of the United States  
16 placed on the ballot in a presidential general election if:

17           (1) the nominees possess the qualifications for those  
18 offices prescribed by federal law;

19           (2) ~~[before 5 p.m. of the 70th day before presidential~~  
20 ~~election day,~~] the party's state chair signs ~~[and delivers to the~~  
21 ~~secretary of state]~~ a written certification of:

22           (A) the names of the party's nominees for  
23 president and vice-president; and

24           (B) the names and residence addresses of  
25 presidential elector candidates nominated by the party, in a number  
26 equal to the number of presidential electors that federal law  
27 allocates to this state; ~~[and]~~

1           (3) the party's state chair delivers the written  
2 certification to the secretary of state before the later of:

3                   (A) 5 p.m. of the 70th day before presidential  
4 election day; or

5                   (B) 5 p.m. of the first business day after the  
6 date of final adjournment of the party's national presidential  
7 nominating convention; and

8           (4) the party is:

9                   (A) required or authorized by Subchapter A of  
10 Chapter 172 to make its nominations by primary election; or

11                   (B) entitled to have the names of its nominees  
12 placed on the general election ballot under Chapter 181.

13           (b) If the state chair's certification of the party's  
14 nominees is delivered by mail, it is considered to be delivered at  
15 the time of its receipt by the secretary of state.

16           SECTION 18. Subsection (b), Section 192.033, Election Code,  
17 is amended to read as follows:

18           (b) The [~~Not later than the 62nd day before presidential~~  
19 ~~election day, the~~] secretary of state shall deliver the  
20 certification to the authority responsible for having the official  
21 ballot prepared in each county before the later of the 62nd day  
22 before presidential election day or the second business day after  
23 the date of final adjournment of the party's national presidential  
24 nominating convention.

25           SECTION 19. Subsection (a), Section 201.054, Election Code,  
26 is amended to read as follows:

27           (a) Except as provided by Subsection (f), a candidate's

1 application for a place on a special election ballot must be filed  
2 not later than:

3 (1) 5 p.m. of the 62nd [~~67th~~] day before election day,  
4 if election day is on or after the 70th day after the date the  
5 election is ordered;

6 (2) 5 p.m. of the 31st day before election day, if  
7 election day is on or after the 36th day and before the 70th day  
8 after the date the election is ordered; or

9 (3) 5 p.m. of a day fixed by the authority ordering the  
10 election, which day must be not earlier than the fifth day after the  
11 date the election is ordered and not later than the 20th day before  
12 election day, if election day is before the 36th day after the date  
13 the election is ordered.

14 SECTION 20. Section 212.112, Election Code, is amended to  
15 read as follows:

16 Sec. 212.112. AMOUNT OF DEPOSIT. The [~~(a)~~ Subject to  
17 ~~Subsection (d), the~~] amount of the recount deposit is [~~determined~~  
18 ~~by the number of precincts for which a recount is requested in the~~  
19 ~~document that the deposit accompanies, in accordance with the~~  
20 ~~following schedule~~]:

21 (1) \$60 [~~five times the maximum hourly rate of pay for~~  
22 ~~election judges,~~] for each [~~a~~] precinct in which[+

23 [~~A~~] regular paper ballots were used; and

24 (2) \$100 for each precinct in which an electronic  
25 voting system was used [~~(B) electronic voting system ballots,~~  
26 ~~other than printed images of ballots cast using direct recording~~  
27 ~~electronic voting machines, are to be recounted manually, or~~

1                   ~~[(C) both write-in votes and voting system votes~~  
2 ~~are to be recounted,~~

3                   ~~[(2) 10 times the maximum hourly rate of pay for~~  
4 ~~election judges, for a precinct in which printed images of ballots~~  
5 ~~cast using direct recording electronic voting machines are to be~~  
6 ~~recounted manually,~~

7                   ~~[(3) three times the maximum hourly rate of pay for~~  
8 ~~election judges, for a precinct in which ballots are to be recounted~~  
9 ~~by automatic tabulating equipment and no write-in votes are to be~~  
10 ~~recounted, and~~

11                   ~~[(4) two times the maximum hourly rate of pay for~~  
12 ~~election judges, for a precinct in which:~~

13                   ~~[(A) voting machines were used and no write-in~~  
14 ~~votes are to be recounted, or~~

15                   ~~[(B) only the write-in votes cast in connection~~  
16 ~~with a voting system are to be recounted].~~

17                   ~~[(b) In a recount of an election for which a majority vote is~~  
18 ~~required for nomination or election to an office, the rate~~  
19 ~~prescribed by Subsection (a)(1)(C) applies to each precinct in~~  
20 ~~which a voting system was used, regardless of whether any write-in~~  
21 ~~votes were cast in the precinct, if:~~

22                   ~~[(1) the original election results show that write-in~~  
23 ~~votes were cast in the election, and~~

24                   ~~[(2) an exclusion of write-in votes from the recount~~  
25 ~~is not obtained under Section 212.136.~~

26                   ~~[(c) If more than one method of voting is used for early~~  
27 ~~voting, each additional method of voting used for the early voting~~

1 ~~shall be treated as constituting an additional precinct in~~  
2 ~~determining the amount of a recount deposit for a recount of early~~  
3 ~~voting votes.~~

4 ~~[(d) The minimum amount of a deposit accompanying a petition~~  
5 ~~for a recount is \$50.]~~

6 SECTION 21. Subsections (b), (c), (d), (e), (f), (g), (h),  
7 and (i), Section 213.013, Election Code, are amended to read as  
8 follows:

9 (b) In a recount of an election on an office, each candidate  
10 for the office is entitled to be present at the recount and have  
11 watchers ~~[representatives]~~ present in the number corresponding to  
12 the number of counting teams designated for the recount. If only  
13 one counting team is designated or the recount is conducted on  
14 automatic tabulating equipment, each candidate is entitled to two  
15 watchers ~~[representatives]~~.

16 (c) In a recount of an election on an office for which a  
17 political party has a nominee or for which a candidate is aligned  
18 with a political party, the party is entitled to have watchers  
19 ~~[representatives]~~ present in the same number prescribed for  
20 candidates under Subsection (b).

21 (d) In a recount of an election on a measure, watchers  
22 ~~[representatives]~~ may be appointed by the campaign treasurer or  
23 assistant campaign treasurer of a specific-purpose political  
24 committee that supports or opposes the measure in the number  
25 corresponding to the number of counting teams designated for the  
26 recount. If only one counting team is designated or the recount is  
27 conducted on automatic tabulating equipment, each eligible

1 specific-purpose political committee is entitled to two watchers  
2 [~~representatives~~].

3 (e) A watcher [~~representative~~] appointed to serve at a  
4 recount must deliver a certificate of appointment to the recount  
5 committee chair at the time the watcher [~~representative~~] reports  
6 for service. A watcher [~~representative~~] who presents himself or  
7 herself for service at any time immediately before or during the  
8 recount and submits a proper certificate of appointment must be  
9 accepted for service unless the number of appointees to which the  
10 appointing authority is entitled have already been accepted.

11 (f) The certificate must be in writing and must include:

12 (1) the printed name and the signature of the watcher  
13 [~~representative~~];

14 (2) the election subject to the recount;

15 (3) the time and place of the recount;

16 (4) the measure, candidate, or political party being  
17 represented;

18 (5) the signature and the printed name of the person  
19 making the appointment; and

20 (6) an indication of the capacity in which the  
21 appointing authority is acting.

22 (g) If the watcher [~~representative~~] is accepted for  
23 service, the recount committee chair shall keep the certificate and  
24 deliver it to the recount coordinator after the recount for  
25 preservation under Section 211.007. If the watcher  
26 [~~representative~~] is not accepted for service, the recount committee  
27 chair shall return the certificate to the watcher [~~representative~~]

1 with a signed statement of the reason for the rejection.

2 (h) Each person entitled to be present at a recount is  
3 entitled to observe any activity conducted in connection with the  
4 recount. The person is entitled to sit or stand conveniently near  
5 the officers conducting the observed activity and near enough to an  
6 officer who is announcing the votes or examining or processing the  
7 ballots to verify that the ballots are counted or processed  
8 correctly or to an officer who is tallying the votes to verify that  
9 they are tallied correctly. Rules concerning a watcher's  
10 [~~representative's~~] rights, duties, and privileges are otherwise  
11 the same as those prescribed by this code for poll watchers to the  
12 extent they can be made applicable.

13 (i) No mechanical or electronic means of recording images or  
14 sound are allowed inside the room in which the recount is conducted,  
15 or in any hallway or corridor in the building in which the recount  
16 is conducted within 30 feet of the entrance to the room, while the  
17 recount is in progress. However, on request of a person entitled to  
18 appoint watchers [~~representatives~~] to serve at the recount, the  
19 recount committee chair shall permit the person to photocopy under  
20 the chair's supervision any ballot, including any supporting  
21 materials, challenged by the person or person's watcher  
22 [~~representative~~]. The person must pay a reasonable charge for  
23 making the copies and, if no photocopying equipment is available,  
24 may supply that equipment at the person's expense. The person shall  
25 provide a copy on request to another person entitled to appoint  
26 watchers [~~representatives~~] to serve at the recount.

27 SECTION 22. Section 213.016, Election Code, is amended to

1 read as follows:

2           Sec. 213.016. PRINTING IMAGES OF BALLOTS CAST USING DIRECT  
3 RECORDING ELECTRONIC VOTING MACHINES. During any printing of  
4 images of ballots cast using direct recording electronic voting  
5 machines for the purpose of a recount, the full recount committee is  
6 not required to be present. The recount committee chair shall  
7 determine how many committee members must be present during the  
8 printing of the images. Each candidate is entitled to be present  
9 and to have representatives present during the printing of the  
10 images in the same number as [~~prescribed by~~] Section 213.013(b)  
11 prescribes for watchers for a recount [~~during the printing of the~~  
12 ~~images~~].

13           SECTION 23. Subsection (b), Section 221.014, Election Code,  
14 is amended to read as follows:

15           (b) The county shall pay the expenses of a new election  
16 ordered in the contest of a local option election [~~held under the~~  
17 ~~Alcoholic Beverage Code~~] that was financed from money deposited by  
18 the applicants for the petition requesting the election.

19           SECTION 24. Subsections (a), (b), and (c), Section 271.002,  
20 Election Code, are amended to read as follows:

21           (a) If the elections ordered by the authorities of two or  
22 more political subdivisions are to be held on the same day in all or  
23 part of the same county [~~territory~~], the governing bodies of the  
24 political subdivisions may enter into an agreement to hold the  
25 elections jointly in the election precincts that can be served by  
26 common polling places, subject to Section 271.003.

27           (b) If an election ordered by the governor and the elections



1 ordered by the authorities of one or more political subdivisions  
2 are to be held on the same day in all or part of the same county  
3 [~~territory~~], the commissioners court of a county in which the  
4 election ordered by the governor is to be held and the governing  
5 bodies of the other political subdivisions may enter into an  
6 agreement to hold the elections jointly in the election precincts  
7 that can be served by common polling places, subject to Section  
8 271.003.

9 (c) If another law requires two or more political  
10 subdivisions to hold a joint election, the governing body of any  
11 other political subdivision holding an election on the same day in  
12 all or part of the same county [~~territory~~] in which the joint  
13 election is to be held may enter into an agreement to participate in  
14 the joint election with the governing bodies of the political  
15 subdivisions holding the joint election.

16 SECTION 25. Section 277.001, Election Code, is amended to  
17 read as follows:

18 Sec. 277.001. APPLICABILITY OF CHAPTER. This chapter  
19 applies to a petition authorized or required to be filed under a law  
20 outside this code in connection with an election{~~, except a~~  
21 ~~petition for a local option election held under the Alcoholic~~  
22 ~~Beverage Code~~}.

23 SECTION 26. The following provisions of the Election Code  
24 are repealed:

- 25 (1) Section 1.016;  
26 (2) Subsection (d), Section 32.051;  
27 (3) Subsection (b), Section 33.031;

1           (4) Subsection (b), Section 41.0041; and

2           (5) Subsection (d), Section 65.002.

3           SECTION 27. The change in law made by the repeal of Section  
4 1.016, Election Code, by this Act does not affect the validity of a  
5 person's action taken before the effective date of this Act,  
6 including a person's registration to vote, if the person was  
7 qualified to take such action before the effective date of this Act.

8           SECTION 28. The changes in law made by this Act apply only  
9 to an election ordered on or after September 1, 2009.

10          SECTION 29. This Act takes effect September 1, 2009.

Senate Bill 1970  
Conference Committee Report  
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION

CONFERENCE

SECTION 1. Same as Senate version.

SECTION 1. Section 2.051(a), Election Code, is amended to read as follows:

SECTION 1. Same as Senate version.

(a) Except as provided by Sections 2.055 and 2.056, this subchapter applies only to an election for officers of a political subdivision other than a county in which write-in votes may be counted only for names appearing on a list of write-in candidates and in which[=

~~[(1)]~~ each candidate for an office that is to appear on the ballot is unopposed, except as provided by Subsection (b)[; and

~~[(2) no proposition is to appear on the ballot].~~ For purposes of this section, a special election of a political subdivision is considered to be a separate election with a separate ballot from:

(1) a general election for officers of the political subdivision held at the same time as the special election; or

(2) another special election of the political subdivision held at the same time as the special election.

SECTION 2. Same as Senate version.

SECTION 2. Section 2.053, Election Code, is amended to read as follows:

SECTION 2. Same as Senate version.

Sec. 2.053. ACTION ON CERTIFICATION. (a) On receipt of the certification, the governing body of the political subdivision by order or ordinance may declare each unopposed candidate elected to the office. If no election is to be held on election day by the political subdivision, a copy of the order or ordinance shall be posted on election day at each polling place used or that

would have been used in the election.

(b) If a declaration is made under Subsection (a), the election is not held. ~~[A copy of the order or ordinance shall be posted on election day at each polling place that would have been used in the election.]~~

(c) The ballots used at a separate election held at the same time as an election that would have been held if the candidates were not declared elected under this section shall include the offices and names of the candidates declared elected under this section listed separately after the measures or contested races in the separate election under the heading "Unopposed Candidates Declared Elected." The candidates shall be grouped in the same relative order prescribed for the ballot generally. No votes are cast in connection with the candidates.

(d) The secretary of state by rule may prescribe any additional procedures necessary to accommodate a particular voting system or ballot style and to facilitate the efficient and cost-effective implementation of this section.

(e) A certificate of election shall be issued to each candidate in the same manner and at the same time as provided for a candidate elected at the election. The candidate must qualify for the office in the same manner as provided for a candidate elected at the election.

SECTION 3. Same as Senate version.

SECTION 3. Section 2.054(a), Election Code, is amended to read as follows:

SECTION 3. Same as Senate version.

(a) In an election that may be subject to this subchapter, a [A] person commits an offense if by intimidation or by means of coercion the person influences or attempts to influence a person to:

(1) not file an application for a place on the ballot or a declaration of write-in candidacy; or

(2) withdraw as a candidate [in an election that may be subject to this subchapter].

SECTION 4. Same as Senate version.

SECTION 4. Chapter 2, Election Code, is amended by adding Subchapter D to read as follows:

SUBCHAPTER D. CANCELLATION OF ELECTIONS

Sec. 2.081. CANCELLATION OF MOOT MEASURE. (a) If an authority that orders an election on a measure determines that the action to be authorized by the voters may not be taken, regardless of the outcome of the election, the authority may declare the measure moot and remove the measure from the ballot.

(b) If a measure is declared moot under this section and is removed from the ballot, the authority holding the election shall post notice of the declaration during early voting by personal appearance and on election day, at each polling place that would have been used for the election on the measure.

Sec. 2.082. SPECIFIC AUTHORITY FOR CANCELLATION REQUIRED. An authority that orders an election may cancel the election only if the power to cancel the election is specifically provided by statute.

SECTION 4. Same as Senate version.

SECTION 5. Same as Senate version.

SECTION 5. Section 4.004(a), Election Code, is amended to read as follows:

(a) The notice of a general or special election must state:

(1) the nature and date of the election;  
(2) except as provided by Subsection (c), the location of each polling place, including each early voting polling place;

(3) the hours that the polls will be open; and  
(4) any other information required by other law.

SECTION 5. Same as Senate version.

SECTION 6. Same as Senate version.

SECTION 6. Section 16.031(a), Election Code, is amended to read as follows:

SECTION 6. Same as Senate version.

(a) The registrar shall cancel a voter's reg immediately on receipt of:

(1) notice under Section 13.072(b) or 15.021 or a response under Section 15.053 that the voter's residence is outside the county;

(2) an abstract of the voter's death certificate under Section 16.001(a) or an abstract of an application indicating that the voter is deceased under Section 16.001(b);

(3) an abstract of a final judgment of the voter's total mental incapacity, partial mental incapacity without the right to vote, conviction of a felony, or disqualification under Section 16.002, 16.003, or 16.004;

(4) notice under Section 112.012 that the voter has applied for a limited ballot in another county;

(5) notice from a voter registration official in another state that the voter has registered to vote outside this state; [er]

(6) notice from the early voting clerk under Section 101.0041 that a federal postcard application submitted by an applicant states a voting residence address located outside the registrar's county; or

(7) notice from the secretary of state that the voter has registered to vote in another county, as determined by the voter's driver's license number or personal identification card number issued by the Department of Public Safety or social security number.

SECTION 7. Subchapter A, Chapter 61, Election Code, is amended by adding Section 61.016 to read as follows:

Sec. 61.016. EMERGENCY PAPER BALLOTS.

(a) An insufficient number of ballots or a malfunction of electronic voting system equipment must be remedied through the use of emergency paper ballots when no other method of voting is available during voting hours for a

No equivalent provision.

No equivalent provision.

person whose acceptance for voting is required by this code.

(b) The secretary of state shall prescribe procedures for the creation and use of emergency paper ballots as required by this section.

SECTION 8. Section 67.010, Election Code, is amended by adding Subsection (d) to read as follows:

(d) The presiding officer may make a clerical correction to the officially canvassed returns based on any authorized amended county canvass filed with the presiding officer.

SECTION 9. Section 85.001(e), Election Code, is amended to read as follows:

(e) For an election held on the uniform election date in May and any resulting runoff election, the period for early voting by personal appearance begins on the 12th day before election day and continues through the fourth day before election day.

SECTION 10. Section 85.004, Election Code, is amended to read as follows:

Sec. 85.004. PUBLIC NOTICE OF ~~[MAIN]~~ POLLING PLACE LOCATION. The election order and the election notice must state the location of each ~~[the main]~~ early voting polling place.

SECTION 11. Chapter 101, Election Code, is amended by adding Section 101.0041 to read as follows:

Sec. 101.0041. ACTION BY EARLY VOTING CLERK ON CERTAIN APPLICATIONS. The early voting clerk shall notify the voter registrar of a federal

SECTION 7. Same as Senate version.

SECTION 8 Same as Senate version.

SECTION 9. Same as Senate version

SECTION 10. Same as Senate version.

SECTION 7. Same as Senate version.

SECTION 8 Same as Senate version.

SECTION 9. Same as Senate version

SECTION 10. Same as Senate version.

postcard application submitted by an applicant that states a voting residence address located outside the registrar's county.

SECTION 11. Same as Senate version.

SECTION 12. Section 112.002(a), Election Code, is amended to read as follows:

(a) After changing residence to another county, a person is eligible to vote a limited ballot by personal appearance during the early voting period or by mail if:

(1) the person would have been eligible to vote in the county of former residence on election day if still residing in that county;

(2) the person is ~~[was]~~ registered to vote in the county of former residence at the time the person offers to vote in the county of new ~~[when the voter changed]~~ residence; and

(3) a voter registration for the person in the county of new residence is not effective on or before election day.

SECTION 11. Same as Senate version.

SECTION 12. Same as Senate version.

SECTION 13. Subchapter A, Chapter 125, Election Code, is amended by adding Section 125.010 to read as follows:

Sec. 125.010. PRESENCE OF VOTING SYSTEM TECHNICIAN AUTHORIZED. (a) In this section, "voting system technician" means a person who as a vocation repairs, assembles, maintains, or operates voting system equipment.

(b) On the request of the authority holding the election, a voting system technician may be present at a polling place, a meeting of the early voting ballot board, or a central counting station for the purpose of repairing, assembling, maintaining, or operating voting system equipment.

SECTION 12. Same as Senate version.



SECTION 13. Same as Senate version.

SECTION 14. Subchapter B, Chapter 141, Election Code, is amended by adding Section 141.040 to read as follows:

Sec. 141.040. NOTICE OF DEADLINES. Not later than the 30th day before the first day on which a candidate may file an application for a place on the ballot under this subchapter, the authority with whom the application must be filed shall post notice of the dates of the filing period in a public place in a building in which the authority has an office.

SECTION 13. Same as Senate version.

SECTION 14. Same as Senate version.

SECTION 15. Section 146.0301(a), Election Code, as amended by Chapters 1107 (H.B. 2309) and 1109 (H.B. 2339), Acts of the 79th Legislature, Regular Session, 2005, is reenacted to read as follows:

(a) A write-in candidate may not withdraw from the election after the 67th day before election day.

SECTION 14. Same as Senate version.

SECTION 15. Same as Senate version.

SECTION 16. Section 172.116(b), Election Code, is amended to read as follows:

(b) The committee shall convene to conduct the local canvass at the county seat [~~not earlier than 6 p.m.~~] on the second Thursday [~~or later than 1 p.m. on the second Friday~~] after election day at the hour specified by the county chair.

SECTION 15. Same as Senate version.

SECTION 16. Same as Senate version.

SECTION 17. Section 172.120, Election Code, is amended by amending Subsection (b) and adding Subsection (b-1) to read as follows:

(b) The state executive committee shall convene to conduct the state canvass for the general primary election not later than:

(1) [~~on~~] the second Sunday [~~Wednesday~~]

SECTION 16. Same as Senate version.

after general primary election day, for an election in which three or more candidates are seeking election to the same office; or

(2) the 22nd day after general primary election day, for an election not described by Subdivision (1).

(b-1) Not later than the third [~~second~~] Saturday after runoff primary election day, the committee shall convene at the call of the state chair to conduct the state canvass of the runoff primary election.

SECTION 17. Same as Senate version.

SECTION 18. Section 192.031, Election Code, is amended to read as follows:

Sec. 192.031. PARTY CANDIDATE'S ENTITLEMENT TO PLACE ON BALLOT. (a) A political party is entitled to have the names of its nominees for president and vice-president of the United States placed on the ballot in a presidential general election if:

(1) the nominees possess the qualifications for those offices prescribed by federal law;

(2) [~~before 5 p.m. of the 70th day before presidential election day;~~] the party's state chair signs [~~and delivers to the secretary of state~~] a written certification of:

(A) the names of the party's nominees for president and vice-president; and

(B) the names and residence addresses of presidential elector candidates nominated by the party, in a number equal to the number of presidential electors that federal law allocates to this state; [~~and~~]

(3) the party's state chair delivers the written certification to the secretary of state before the later of:

(A) 5 p.m. of the 70th day before presidential election day; or

(B) 5 p.m. of the first business day after the date of final adjournment of the party's national

SECTION 17. Same as Senate version.

presidential nominating convention; and

(4) the party is:

(A) required or authorized by Subchapter A of Chapter 172 to make its nominations by primary election; or

(B) entitled to have the names of its nominees placed on the general election ballot under Chapter 181.

(b) If the state chair's certification of the party's nominees is delivered by mail, it is considered to be delivered at the time of its receipt by the secretary of state.

SECTION 18. Same as Senate version.

SECTION 19. Section 192.033(b), Election Code, is amended to read as follows:

(b) ~~The [Not later than the 62nd day before presidential election day, the]~~ secretary of state shall deliver the certification to the authority responsible for having the official ballot prepared in each county before the later of the 62nd day before presidential election day or the second business day after the date of final adjournment of the party's national presidential nominating convention.

SECTION 18. Same as Senate version.

SECTION 19. Same as Senate version.

SECTION 20. Section 201.054(a), Election Code, is amended to read as follows:

(a) Except as provided by Subsection (f), a candidate's application for a place on a special election ballot must be filed not later than:

(1) 5 p.m. of the 62nd ~~[67th]~~ day before election day, if election day is on or after the 70th day after the date the election is ordered;

(2) 5 p.m. of the 31st day before election day, if election day is on or after the 36th day and before the 70th day after the date the election is ordered; or

(3) 5 p.m. of a day fixed by the authority ordering the election, which day must be not earlier than

SECTION 19. Same as Senate version.

the fifth day after the date the election is ordered and not later than the 20th day before election day, if election day is before the 36th day after the date the election is ordered.

SECTION 20. Same as Senate version.

SECTION 21. Section 212.112, Election Code, is amended to read as follows:

Sec. 212.112. AMOUNT OF DEPOSIT. ~~The [(a) Subject to Subsection (d), the]~~ amount of the recount deposit is ~~[determined by the number of precincts for which a recount is requested in the document that the deposit accompanies, in accordance with the following schedule]:~~

(1) ~~\$60 [five times the maximum hourly rate of pay for election judges,]~~ for each [a] precinct in which[~~:~~

~~[(A)] regular paper ballots were used; and~~

~~(2) \$100 for each precinct in which an electronic voting system was used [(B) electronic voting system ballots, other than printed images of ballots cast using direct recording electronic voting machines, are to be recounted manually; or~~

~~[(C) both write-in votes and voting system votes are to be recounted;~~

~~[(2) 10 times the maximum hourly rate of pay for election judges, for a precinct in which printed images of ballots cast using direct recording electronic voting machines are to be recounted manually;~~

~~[(3) three times the maximum hourly rate of pay for election judges, for a precinct in which ballots are to be recounted by automatic tabulating equipment and no write-in votes are to be recounted; and~~

~~[(4) two times the maximum hourly rate of pay for election judges, for a precinct in which:~~

~~[(A) voting machines were used and no write-in votes are to be recounted; or~~

~~[(B) only the write-in votes cast in~~

SECTION 20. Same as Senate version.

watchers [~~representatives~~] may be appointed by the campaign treasurer or assistant campaign treasurer of a specific-purpose political committee that supports or opposes the measure in the number corresponding to the number of counting teams designated for the recount. If only one counting team is designated or the recount is conducted on automatic tabulating equipment, each eligible specific-purpose political committee is entitled to two watchers [~~representatives~~].

(e) A watcher [~~representative~~] appointed to serve at a recount must deliver a certificate of appointment to the recount committee chair at the time the watcher [~~representative~~] reports for service. A watcher [~~representative~~] who presents himself or herself for service at any time immediately before or during the recount and submits a proper certificate of appointment must be accepted for service unless the number of appointees to which the appointing authority is entitled have already been accepted.

(f) The certificate must be in writing and must include:

- (1) the printed name and the signature of the watcher [~~representative~~];
- (2) the election subject to the recount;
- (3) the time and place of the recount;
- (4) the measure, candidate, or political party being represented;
- (5) the signature and the printed name of the person making the appointment; and
- (6) an indication of the capacity in which the appointing authority is acting.

(g) If the watcher [~~representative~~] is accepted for service, the recount committee chair shall keep the certificate and deliver it to the recount coordinator after the recount for preservation under Section 211.007. If the watcher [~~representative~~] is not accepted for service, the recount committee chair shall return the certificate to the

watcher [~~representative~~] with a signed statement of the reason for the rejection.

(h) Each person entitled to be present at a recount is entitled to observe any activity conducted in connection with the recount. The person is entitled to sit or stand conveniently near the officers conducting the observed activity and near enough to an officer who is announcing the votes or examining or processing the ballots to verify that the ballots are counted or processed correctly or to an officer who is tallying the votes to verify that they are tallied correctly. Rules concerning a watcher's [~~representative's~~] rights, duties, and privileges are otherwise the same as those prescribed by this code for poll watchers to the extent they can be made applicable.

(i) No mechanical or electronic means of recording images or sound are allowed inside the room in which the recount is conducted, or in any hallway or corridor in the building in which the recount is conducted within 30 feet of the entrance to the room, while the recount is in progress. However, on request of a person entitled to appoint watchers [~~representatives~~] to serve at the recount, the recount committee chair shall permit the person to photocopy under the chair's supervision any ballot, including any supporting materials, challenged by the person or person's watcher [~~representative~~]. The person must pay a reasonable charge for making the copies and, if no photocopying equipment is available, may supply that equipment at the person's expense. The person shall provide a copy on request to another person entitled to appoint watchers [~~representatives~~] to serve at the recount.

SECTION 22. Same as Senate version.

SECTION 23. Section 213.016, Election Code, is amended to read as follows:

Sec. 213.016. PRINTING IMAGES OF BALLOTS CAST USING DIRECT RECORDING ELECTRONIC VOTING MACHINES. During any printing of images of

SECTION 22. Same as Senate version.

ballots cast using direct recording electronic voting machines for the purpose of a recount, the full recount committee is not required to be present. The recount committee chair shall determine how many committee members must be present during the printing of the images. Each candidate is entitled to be present and to have representatives present during the printing of the images in the same number as ~~[prescribed by]~~ Section 213.013(b) prescribes for watchers for a recount ~~[during the printing of the images]~~.

SECTION 23. Same as Senate version.

SECTION 24. Section 221.014(b), Election Code, is amended to read as follows:

SECTION 23. Same as Senate version.

(b) The county shall pay the expenses of a new election ordered in the contest of a local option election ~~[held under the Alcoholic Beverage Code]~~ that was financed from money deposited by the applicants for the petition requesting the election.

SECTION 24. Same as Senate version.

SECTION 25. Sections 271.002(a), (b), and (c), Election Code, are amended to read as follows:

SECTION 24. Same as Senate version.

(a) If the elections ordered by the authorities of two or more political subdivisions are to be held on the same day in all or part of the same county ~~[territory]~~, the governing bodies of the political subdivisions may enter into an agreement to hold the elections jointly in the election precincts that can be served by common polling places, subject to Section 271.003.

(b) If an election ordered by the governor and the elections ordered by the authorities of one or more political subdivisions are to be held on the same day in all or part of the same county ~~[territory]~~, the commissioners court of a county in which the election ordered by the governor is to be held and the governing bodies of the other political subdivisions may enter into an agreement to hold the

elections jointly in the election precincts that can be served by common polling places, subject to Section 271.003.

(c) If another law requires two or more political subdivisions to hold a joint election, the governing body of any other political subdivision holding an election on the same day in all or part of the same county [~~territory~~] in which the joint election is to be held may enter into an agreement to participate in the joint election with the governing bodies of the political subdivisions holding the joint election.

SECTION 25. Same as Senate version.

SECTION 26. Section 277.001, Election Code, is amended to read as follows:

Sec. 277.001. APPLICABILITY OF CHAPTER. This chapter applies to a petition authorized or required to be filed under a law outside this code in connection with an election[, ~~except a petition for a local option election held under the Alcoholic Beverage Code~~].

SECTION 25. Same as Senate version.

SECTION 26. Same as Senate version.

SECTION 27. Sections 1.016, 32.051(d), 33.031(b), 41.0041(b), and 65.002(d), Election Code, are repealed.

SECTION 26. Same as Senate version.

SECTION 27. Same as Senate version.

SECTION 28. The change in law made by the repeal of Section 1.016, Election Code, by this Act does not affect the validity of a person's action taken before the effective date of this Act, including a person's registration to vote, if the person was qualified to take such action before the effective date of this Act.

SECTION 27. Same as Senate version.

SECTION 28. Same as Senate version.

SECTION 29. The changes in law made by this Act apply only to an election ordered on or after September 1, 2009.

SECTION 28. Same as Senate version.



SECTION 29. Same as Senate version.

SECTION 30. This Act takes effect September 1, 2009.

SECTION 29. Same as Senate version.

SECTION \_\_\_\_ Section 141.001(a), Election Code, is amended to read as follows:

(a) To be eligible to be a candidate for, or elected or appointed to, a public elective office in this state, a person must:

(1) be a United States citizen;

(2) be 18 years of age or older on the first day of the term to be filled at the election or on the date of appointment, as applicable;

(3) have not been determined by a final judgment of a court exercising probate jurisdiction to be:

(A) totally mentally incapacitated; or

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

(4) have not been finally convicted of a felony from which the person has not been pardoned or otherwise released from the resulting disabilities or for which the person's sentence has not been commuted by the chief executive officer of the jurisdiction of conviction;

(5) have resided continuously in the state for 12 months and in the territory from which the office is elected for six months immediately preceding the following date:

(A) for a candidate whose name is to appear on a general primary election ballot, the date of the regular filing deadline for a candidate's application for a place on the ballot;

(B) for an independent candidate, the date of the regular filing deadline for a candidate's application for a place on the ballot;

No equivalent provision.

No equivalent provision.

(C) for a write-in candidate, the date of the election at which the candidate's name is written in;

(D) for a party nominee who is nominated by any method other than by primary election, the date the nomination is made; and

(E) for an appointee to an office, the date the appointment is made; and

(6) satisfy any other eligibility requirements prescribed by law for the office.

SECTION \_\_\_\_\_. 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 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

No equivalent provision.

No equivalent provision.

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) a statement that the candidate has not been finally convicted of a felony from which the candidate has not been pardoned or otherwise released from the resulting disabilities or for which the person's sentence has not been commuted by the chief executive officer of the jurisdiction of conviction;

(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;

(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"; and

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

**LEGISLATIVE BUDGET BOARD**

Austin, Texas

**FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION**

May 31, 2009

**TO:** Honorable David Dewhurst , Lieutenant Governor, Senate  
Honorable Joe Straus, Speaker of the House, House of Representatives

**FROM:** John S. O'Brien, Director, Legislative Budget Board

**IN RE:** SB1970 by Duncan (relating to certain election practices and procedures; providing penalties.), Conference Committee Report

**No significant fiscal implication to the State is anticipated.**

The bill would amend the Election Code regarding ballots for certain special elections and would require the Secretary of State, by rule, to prescribe any additional procedures necessary to accommodate a particular voting system or ballot style.

The bill would add Subchapter D to Chapter 2, Election Code, establishing procedures related to a cancellation of an election.

The Election Code would be amended regarding canceling a voter's registration; regarding a requirement for the use of emergency paper ballots and requiring the Secretary of State to prescribe procedures; allowing the presiding officer to make a clerical correction to the officially canvassed returns; regarding requirements of an early voting clerk; authorizing having a voting system technician present at a polling place, a meeting of the early voting ballot board, or a central counting station; and requiring posting notice of filing deadlines.

The Election Code would be amended regarding the time frame in which the Secretary of State must deliver the certification to the authority responsible for having the official ballot prepared in each county.

The amount of deposit required for a recount would be changed from the various calculations in current statute to \$60 for each precinct in which regular paper ballots were used and \$100 for each precinct in which an electronic voting system was used.

The bill would repeal sections of the Election Code and make a conforming amendment to Section 277.001 regarding the applicability of Chapter 277. Under current statute, provisions of Chapter 277 do not apply to a petition for a local option election held under the Alcoholic Beverage Code. Under provisions of the bill, the chapter would apply.

Changes in statute would apply only to an election ordered on or after September 1, 2009, which would also be the effective date of the bill.

Based on analysis by the Secretary of State, there would be no significant fiscal impact to the agency or the state.

**Local Government Impact**

No significant fiscal implication to units of local government is anticipated.

**Source Agencies:** 307 Secretary of State

**LBB Staff:** JOB, KK, KJG, DB