

# CONFERENCE COMMITTEE REPORT FORM

Austin, Texas

5-28-11

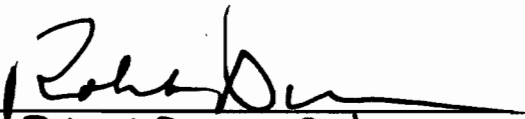
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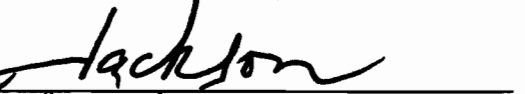
Honorable David Dewhurst  
President of the Senate

Honorable Joe Straus  
Speaker of the House of Representatives


Sirs:

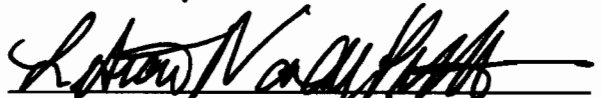
We, Your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on HB 2817 have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

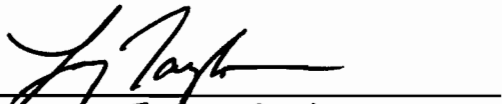
  
Sen. Robert Duncan, Chair

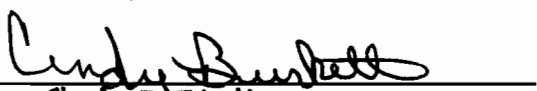
  
Sen. Mike Jackson

  
Sen. Tommy Williams


  
Sen. Rodney Ellis


  
On the part of the Senate  
Sen. Leticia Van de Putte

  
Rep. Larry Taylor, Chair

  
Rep. Cindy Burkett

  
Rep. Phil King

  
Rep. Dan Branch

  
On the part of the House  
Rep. Ana Hernandez Luna

## 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

H.B. No. 2817

A BILL TO BE ENTITLED

1 AN ACT

2 relating to certain election practices and procedures.

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

4 SECTION 1. Section 4.004(a), Election Code, is amended to  
5 read as follows:

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

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

8 (2) except as provided by Subsection (c), the location  
9 of each polling place [~~including each early voting polling place~~];

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

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

12 SECTION 2. Section 13.031(d), Election Code, is amended to  
13 read as follows:

14 (d) To be eligible for appointment as a volunteer deputy  
15 registrar, a person must:

16 (1) be 18 years of age or older; ~~and~~

17 (2) not have been finally convicted of a felony or, if  
18 so convicted, must have:

19 (A) fully discharged the person's sentence,  
20 including any term of incarceration, parole, or supervision, or  
21 completed a period of probation ordered by any court; or

22 (B) been pardoned or otherwise released from the  
23 resulting disability to vote; and

24 (3) not have been finally convicted of an offense

1 under Section 32.51, Penal Code.

2 SECTION 3. Section 18.064, Election Code, is amended to  
3 read as follows:

4 Sec. 18.064. SANCTION FOR NONCOMPLIANCE. If a registrar  
5 fails to substantially comply with Section 15.083, 16.032,  
6 [~~18.042~~] or 18.061 or with rules adopted by the secretary of state  
7 implementing the statewide computerized voter registration list,  
8 the registrar is not entitled to receive state funds for financing  
9 voter registration in the county.

10 SECTION 4. Section 18.065(a), Election Code, is amended to  
11 read as follows:

12 (a) The secretary of state shall monitor each registrar for  
13 substantial compliance with Sections 15.083, 16.032, [~~18.042~~] and  
14 18.061 and with rules implementing the statewide computerized voter  
15 registration list.

16 SECTION 5. Subchapter C, Chapter 18, Election Code, is  
17 amended by adding Section 18.068 to read as follows:

18 Sec. 18.068. VOTING HISTORY. Not later than the 30th day  
19 after the date of the primary, runoff primary, or general election  
20 or any special election ordered by the governor, the registrar  
21 shall electronically submit to the secretary of state the record of  
22 each voter participating in the election.

23 SECTION 6. Section 19.002(d), Election Code, is amended to  
24 read as follows:

25 (d) The comptroller may not issue a warrant if on June 1 of  
26 the year in which the warrant is to be issued the most recent notice  
27 received by the comptroller from the secretary of state under

1 Section 18.065 indicates that the registrar is not in substantial  
2 compliance with Section 15.083, 16.032, [~~18.042,~~] or 18.065 or with  
3 rules implementing the registration service program.

4 SECTION 7. Section 31.006, Election Code, is amended to  
5 read as follows:

6 Sec. 31.006. REFERRAL OF COMPLAINT TO ATTORNEY GENERAL.

7 (a) If, after receiving a complaint alleging criminal conduct in  
8 connection with an election, the secretary of state determines that  
9 there is reasonable cause to suspect that the alleged criminal  
10 conduct occurred, the secretary shall promptly refer the complaint  
11 to the attorney general. The secretary shall deliver to the  
12 attorney general all pertinent documents in the secretary's  
13 possession.

14 (b) The documents submitted to the attorney general under  
15 Subsection (a) are not considered public information until the  
16 attorney general has completed the investigation or has made a  
17 determination that the complaint referred does not warrant an  
18 investigation.

19 SECTION 8. Section 31.092(b), Election Code, is amended to  
20 read as follows:

21 (b) The county election officer may contract with the county  
22 executive committee of a political party holding a primary election  
23 in the county to perform election services, as provided by this  
24 subchapter, in the party's general primary election or runoff  
25 primary election, or both. [~~To be binding, a contract under this~~  
26 ~~subsection must be approved in writing by the secretary of state,~~  
27 ~~and the execution of a contract is not completed until written~~

1 ~~approval is obtained.]~~

2 SECTION 9. Section 31.093(a), Election Code, is amended to  
3 read as follows:

4 (a) If requested to do so by a political subdivision or  
5 political party, the county elections administrator shall enter  
6 into a contract to furnish the election services requested, in  
7 accordance with a cost schedule agreed on by the contracting  
8 parties. ~~[If the contracting parties are unable to reach an  
9 agreement, on referral by either party, the secretary of state  
10 shall either prescribe terms that the administrator must accept or  
11 instruct the administrator to decline to enter into a contract with  
12 the requesting party.]~~

13 SECTION 10. Section 32.002(c), Election Code, is amended to  
14 read as follows:

15 (c) The presiding judge and alternate presiding judge must  
16 be affiliated or aligned with different political parties, subject  
17 to this subsection. Before July of each year in a county to which  
18 Subsection (a)(1) applies or before August of each year in a county  
19 to which Subsection (a)(2) applies, the county chair of a political  
20 party whose candidate for governor received the highest or second  
21 highest number of votes in the county in the most recent  
22 gubernatorial general election shall submit in writing to the  
23 commissioners court a list of names of persons in order of  
24 preference for each precinct who are eligible for appointment as an  
25 election judge. The county chair may supplement the list of names  
26 of persons until the 20th day before a general election or the 15th  
27 day before a special election in case an appointed election judge

1 becomes unable to serve. The commissioners court shall appoint the  
2 first person meeting the applicable eligibility requirements from  
3 the list submitted in compliance with this subsection by the party  
4 with the highest number of votes in the precinct as the presiding  
5 judge and the first person meeting the applicable eligibility  
6 requirements from the list submitted in compliance with this  
7 subsection by the party with the second highest number of votes in  
8 the precinct as the alternate presiding judge. If the candidates  
9 for governor of two political parties received the same number of  
10 votes in the precinct, the first person meeting the applicable  
11 eligibility requirements from the list submitted by the party whose  
12 candidate for governor received the highest number of votes in the  
13 county shall be appointed as the presiding judge and the first  
14 person meeting the applicable eligibility requirements from the  
15 list submitted by the party whose candidate for governor received  
16 the second highest number of votes in the county shall be appointed  
17 as the alternate presiding judge. The commissioners court may  
18 reject the list if the persons whose names are submitted on the list  
19 are determined not to meet the applicable eligibility requirements.

20 SECTION 11. Section 33.006(b), Election Code, is amended to  
21 read as follows:

22 (b) A certificate of appointment must:

23 (1) be in writing and signed by the appointing  
24 authority or, for an appointment for a write-in candidate under  
25 Section 33.004, by each of the voters making the appointment;

26 (2) indicate the capacity in which the appointing  
27 authority is acting;

1           (3) state the name, residence address, and voter  
2 registration number of the appointee and be signed by the  
3 appointee;

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

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

9           (6) contain an affidavit executed by the appointee  
10 stating that the appointee will not have possession of a device  
11 capable [~~any mechanical or electronic means~~] of recording images or  
12 sound or that the appointee will disable or deactivate the device  
13 while serving as a watcher.

14           SECTION 12. Section 33.051(c), Election Code, is amended to  
15 read as follows:

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

22           SECTION 13. Section 66.058, Election Code, is amended by  
23 amending Subsection (a) and adding Subsection (h) to read as  
24 follows:

25           (a) Except as otherwise provided by this code, the precinct  
26 election records shall be preserved by the authority to whom they  
27 are distributed:

1           (1) in an election involving a federal office, for at  
2 least 22 months after election day in accordance with federal law;  
3 or

4           (2) in an election not involving a federal office, for  
5 at least six months after election day.

6           (h) For the preservation of precinct election records in an  
7 election involving a federal office, the secretary of state shall  
8 instruct the affected authorities on the actions necessary to  
9 comply with federal law and otherwise implement this section.

10           SECTION 14. Section 84.007(b), Election Code, is amended to  
11 read as follows:

12           (b) An application must be submitted to the early voting  
13 clerk by:

- 14           (1) mail;  
15           (2) common or contract carrier; or  
16           (3) telephonic facsimile machine, [~~if the applicant is~~  
17 ~~absent from the county and~~] if a machine is available in the clerk's  
18 office.

19           SECTION 15. Section 85.004, Election Code, is amended to  
20 read as follows:

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

24           SECTION 16. Sections 85.032(b), (d), and (f), Election  
25 Code, are amended to read as follows:

26           (b) The ballot box in which voters deposit their marked  
27 early voting ballots must have two locks, each with a different key,



1 and must be designed and constructed so that the box can be sealed  
2 to detect any unauthorized opening of the box and that the ballot  
3 slot can be sealed to prevent any unauthorized deposit in the box.  
4 The seals for the boxes must be serially numbered for each election.  
5 The procedures prescribed by Sections 127.064, 127.065, 127.066,  
6 and 127.068 governing the use of sealed ballot boxes in electronic  
7 voting system elections apply to the use of sealed ballot boxes  
8 under this title to the extent those procedures can be made  
9 applicable[~~, with references to the central counting station being~~  
10 ~~applied to the early voting ballot board~~]. The secretary of state  
11 shall prescribe any procedures necessary to implement the use of  
12 sealed ballot boxes in early voting.

13 (d) Each custodian shall retain possession of the key  
14 entrusted to the custodian until it is delivered to the presiding  
15 judge of the central counting station [~~early voting ballot board~~  
16 ~~under Subchapter B, Chapter 87~~].

17 (f) The secretary of state shall prescribe procedures  
18 providing for the security of the voted early voting ballots from  
19 the last day of voting by personal appearance at a polling place  
20 until the day the ballots are counted. [~~The procedures must include~~  
21 ~~security measures covering the transfer of the ballots between the~~  
22 ~~early voting clerk and the early voting ballot board.~~]

23 SECTION 17. Section 87.021, Election Code, is amended to  
24 read as follows:

25 Sec. 87.021. BALLOTS AND OTHER MATERIALS DELIVERED TO  
26 BOARD. The early voting clerk shall deliver to the early voting  
27 ballot board:

1           (1) in an election in which regular paper ballots are  
2 used for early voting by personal appearance, each ballot box, in  
3 accordance with Section 85.032(b), containing the early voting  
4 ballots voted by personal appearance and the clerk's key to each  
5 box;

6           (2) the jacket envelopes containing the early voting  
7 ballots voted by mail, regardless of the ballot type or voting  
8 system used;

9           (3) the poll lists prepared in connection with early  
10 voting by personal appearance;

11           (4) the list of registered voters used in conducting  
12 early voting; and

13           (5) a ballot transmittal form that includes a  
14 statement of the number of early voting ballots voted by mail,  
15 regardless of the ballot type or voting system used, that are  
16 delivered to the early voting ballot board, and in an election in  
17 which regular paper ballots are used for early voting by personal  
18 appearance, the number of names appearing on the poll lists  
19 prepared in connection with early voting by personal appearance.

20           SECTION 18. Subchapter B, Chapter 87, Election Code, is  
21 amended by adding Section 87.0211 to read as follows:

22           Sec. 87.0211. ELECTRONIC DELIVERY OF MATERIALS RECORDED  
23 ELECTRONICALLY. If ballot materials and ballot applications are  
24 recorded electronically as provided by Section 87.126, the early  
25 voting clerk may deliver those materials to the early voting ballot  
26 board through electronic means.

27           SECTION 19. Section 87.0221(a), Election Code, is amended

1 to read as follows:

2 (a) In an election in which regular paper ballots are used  
3 for early voting by personal appearance or by mail, the materials  
4 may be delivered to the board between the end of the period for  
5 early voting by personal appearance and the closing of the polls on  
6 election day, or as soon after closing as practicable, at the time  
7 or times specified by the presiding judge of the board.

8 SECTION 20. Section 87.023(a), Election Code, is amended to  
9 read as follows:

10 (a) In an election in which early voting ballots are to be  
11 counted by automatic tabulating equipment at a central counting  
12 station, the ballots voted by mail to be automatically counted may  
13 be delivered to the board between the end of the period for early  
14 voting by personal appearance and the closing of the polls on  
15 election day, or as soon after closing as practicable, at intervals  
16 specified by the presiding judge of the board.

17 SECTION 21. Section 87.027, Election Code, is amended by  
18 adding Subsection (m) to read as follows:

19 (m) If ballot materials or ballot applications are recorded  
20 electronically as provided by Section 87.126, the signature  
21 verification committee may use an electronic copy of a carrier  
22 envelope certificate or the voter's ballot application in making  
23 the comparison under Subsection (i).

24 SECTION 22. Subchapter G, Chapter 87, Election Code, is  
25 amended by adding Section 87.126 to read as follows:

26 Sec. 87.126. ELECTRONIC RECORDING OF BALLOT MATERIALS AND  
27 APPLICATIONS. (a) The early voting clerk may electronically

1 record applications for a ballot to be voted by mail, jacket  
2 envelopes, carrier envelopes, and ballots.

3 (b) The secretary of state may adopt rules providing  
4 requirements for the electronic image quality and storage of the  
5 electronic images of the documents described by Subsection (a).

6 SECTION 23. Section 101.013, Election Code, is amended to  
7 read as follows:

8 Sec. 101.013. DESIGNATION OF SECRETARY OF STATE. (a) The  
9 secretary of state is designated as the state office to provide  
10 information regarding voter registration procedures and absentee  
11 ballot procedures, including procedures related to the federal  
12 write-in absentee ballot, to be used by persons eligible to vote  
13 under the federal Uniformed and Overseas Citizens Absentee Voting  
14 Act (42 U.S.C. Section 1973ff et seq.), as amended.

15 (b) The secretary of state is designated as the state  
16 coordinator between military and overseas voters and county  
17 election officials. A county election official shall:

18 (1) cooperate with the secretary of state to ensure  
19 that military and overseas voters timely receive accurate balloting  
20 materials that a voter is able to cast in time for the election; and

21 (2) otherwise comply with the federal Military and  
22 Overseas Voter Empowerment Act (Pub. L. No. 111-84, Div. A, Title V,  
23 Subt. H).

24 (c) The secretary of state may adopt rules as necessary to  
25 implement this section.

26 SECTION 24. Section 112.002(a), Election Code, is amended  
27 to read as follows:

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

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

7 (2) the person is registered to vote in the county of  
8 former residence at the time the person:

9 (A) offers to vote in the county of new  
10 residence; or

11 (B) submitted a voter registration application  
12 in the county of new residence; and

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

15 SECTION 25. Section 127.007, Election Code, is amended to  
16 read as follows:

17 Sec. 127.007. PLAN FOR COUNTING STATION OPERATION. (a) The  
18 manager shall establish and implement a written plan for the  
19 orderly operation of the central counting station.

20 (b) The plan required under this section must address the  
21 process for comparing the number of voters who signed the  
22 combination form with the number of votes cast for the entire  
23 election.

24 SECTION 26. Section 127.201, Election Code, is amended by  
25 adding Subsection (g) to read as follows:

26 (g) This section does not apply to the tabulation of  
27 electronic voting system results for a voting system that uses

1 direct recording electronic voting machines.

2 SECTION 27. Section 129.023(c), Election Code, is amended  
3 to read as follows:

4 (c) The general custodian of election records shall adopt  
5 procedures for testing that:

6 (1) direct the testing board to cast votes;

7 (2) verify that each contest position, as well as each  
8 precinct and ballot style, on the ballot can be voted and is  
9 accurately counted [~~for each precinct and ballot style~~];

10 (3) include overvotes and undervotes for each race, if  
11 applicable to the system being tested;

12 (4) include straight-party votes and crossover votes;

13 (5) include write-in votes, when applicable to the  
14 election;

15 (6) include provisional votes, if applicable to the  
16 system being tested;

17 (7) calculate the expected results from the test  
18 ballots;

19 (8) ensure that each voting machine has any public  
20 counter reset to zero and presented to the testing board for  
21 verification before testing;

22 (9) require that, for each feature of the system that  
23 allows disabled voters to cast a ballot, at least one vote be cast  
24 and verified by a two-person testing board team using that feature;  
25 and

26 (10) require that, when all votes are cast, the  
27 general custodian of election records and the testing board observe

1 the tabulation of all ballots and compare the actual results to the  
2 expected results.

3 SECTION 28. Section 141.040, Election Code, is amended to  
4 read as follows:

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

12 (1) the first day on which a candidate may file the  
13 application; or

14 (2) the last day on which a candidate may file the  
15 application, if this code does not designate a first day on which  
16 the candidate may file the application.

17 (b) This section does not apply to an office filled at the  
18 general election for state and county officers.

19 SECTION 29. Section 145.001, Election Code, is amended by  
20 amending Subsection (b) and adding Subsection (d-1) to read as  
21 follows:

22 (b) A [~~To be effective, a~~] withdrawal request must:

23 (1) be in writing and be signed and acknowledged by the  
24 candidate; and

25 (2) be timely filed with the appropriate authority or  
26 an agent of an authority only as expressly provided by this code.

27 (d-1) A withdrawal that is not filed in compliance with

1 Subsection (b) has no legal effect and is not considered filed.

2 SECTION 30. Section 145.005, Election Code, is amended to  
3 read as follows:

4 Sec. 145.005. EFFECT OF VOTES CAST FOR DECEASED, WITHDRAWN,  
5 OR INELIGIBLE CANDIDATE. (a) If the name of a deceased, withdrawn,  
6 or ineligible candidate appears on the ballot under this chapter,  
7 the votes cast for the candidate shall be counted and entered on the  
8 official election returns in the same manner as for the other  
9 candidates.

10 (b) If the deceased, withdrawn, or ineligible candidate  
11 receives the vote required for election, the resulting vacancy  
12 shall be filled in the regular manner.

13 (c) If the deceased, withdrawn, or ineligible candidate and  
14 another candidate tie for the most votes in an election in which a  
15 plurality vote is sufficient for election, the other candidate is  
16 considered to be elected. If more than one other candidate is tied  
17 with the deceased, withdrawn, or ineligible candidate, the winner  
18 of the election shall be determined by resolving the tie between the  
19 other candidates in the regular manner for resolving a tie vote in  
20 the election.

21 (d) In a race in which a runoff is required, if the deceased,  
22 withdrawn, or ineligible candidate received the vote that would  
23 entitle the candidate to a place on the runoff election ballot or  
24 tied for that number of votes, the candidates in the runoff shall be  
25 determined in the regular manner but without regard to the votes  
26 received by the deceased, withdrawn, or ineligible candidate.

27 SECTION 31. Sections 145.092(a) and (d), Election Code, are



1 amended to read as follows:

2 (a) Except as otherwise provided by this section, a  
3 candidate may not withdraw from an election after 5 p.m. of the  
4 third day after the deadline for filing the candidate's application  
5 for a place on the ballot [~~second day before the beginning of early~~  
6 ~~voting by personal appearance~~].

7 (d) A candidate in a runoff election [~~following a main~~  
8 ~~election subject to Subsection (b)~~] may not withdraw from the  
9 election after 5 p.m. of the third day after the date of the main  
10 election.

11 SECTION 32. Section 145.094(a), Election Code, is amended  
12 to read as follows:

13 (a) The name of a candidate shall be omitted from the ballot  
14 if the candidate:

15 (1) dies before the second day before the date of the  
16 deadline for filing the candidate's application for a place on the  
17 ballot;

18 (2) withdraws or is declared ineligible within the  
19 time prescribed by Section 145.092(a) [~~before 5 p.m. of the second~~  
20 ~~day before the beginning of early voting by personal appearance~~],  
21 in an election subject to that section [~~Section 145.092(a)~~];

22 (3) withdraws or is declared ineligible within the  
23 time prescribed by Section 145.092(b) [~~before 5 p.m. of the 53rd day~~  
24 ~~before election day~~], in an election subject to that section  
25 [~~Section 145.092(b)~~]; or

26 (4) withdraws or is declared ineligible within the  
27 time prescribed by Section 145.092(f) [~~before 5 p.m. of the 67th day~~

1 ~~before election day~~, in an election subject to that section  
2 ~~[Section 145.092(f)]~~.

3 SECTION 33. Section 172.052(a), Election Code, is amended  
4 to read as follows:

5 (a) A candidate for nomination may not withdraw from the  
6 general primary election after the first day after the deadline for  
7 filing the candidate's application for a place on the general  
8 primary election ballot ~~[62nd day before general primary election~~  
9 ~~day]~~.

10 SECTION 34. Section 172.057, Election Code, is amended to  
11 read as follows:

12 Sec. 172.057. WITHDRAWN, DECEASED, OR INELIGIBLE  
13 CANDIDATE'S NAME OMITTED FROM GENERAL PRIMARY BALLOT. A  
14 candidate's name shall be omitted from the general primary election  
15 ballot if the candidate withdraws, dies, or is declared ineligible  
16 within the time prescribed by Section 172.052(a) ~~[on or before the~~  
17 ~~62nd day before general primary election day]~~.

18 SECTION 35. Sections 174.022(a), (b), and (c), Election  
19 Code, are amended to read as follows:

20 (a) The precinct conventions may ~~[shall]~~ be held in the  
21 regular county election precincts on:

22 (1) general primary election day; and

23 (2) a date determined by the county executive  
24 committee that occurs not later than the fifth day after the date of  
25 the general primary election ~~[in the regular county election~~  
26 ~~precincts]~~.

27 (b) Consistent with Subsection (c), not ~~[Not]~~ later than the

1 date of the regular drawing for position on the general primary  
2 election ballot, the county executive committee shall set the hour  
3 and place for convening each precinct convention for the precincts  
4 served by the committee. If the county executive committee fails to  
5 do so, the county chair shall set, consistent with Subsection (c),  
6 the hour and place.

7 (c) If precinct conventions are held on general primary  
8 election day, the [The] hour set for convening the conventions may  
9 not be earlier than 7 p.m. or later than 9 p.m., but a  
10 [Notwithstanding the hour set for convening, the] convention may  
11 not convene until the last voter has voted at the precinct polling  
12 place. If precinct conventions are held on a day other than general  
13 primary election day, the county executive committee shall set the  
14 hour for convening or a time frame in which the conventions must  
15 convene.

16 SECTION 36. Section 174.023, Election Code, is amended to  
17 read as follows:

18 Sec. 174.023. NOTICE OF DATE, HOUR, AND PLACE. (a) The  
19 county chair shall post a notice of the date, hour, and place for  
20 convening each precinct convention on the bulletin board used for  
21 posting notice of meetings of the commissioners court. The notice  
22 must remain posted continuously for the 10 days immediately  
23 preceding the date of the convention.

24 (b) Not later than the 10th day before the date of the  
25 precinct conventions, the county chair shall deliver to the county  
26 clerk written notice of the date, hour, and place for convening each  
27 precinct convention.

1 (c) If the county chair fails to post or deliver notice in  
2 accordance with this section, another member of the county  
3 executive committee may post or deliver the notice.

4 SECTION 37. Section 213.013(i), Election Code, is amended  
5 to read as follows:

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

21 SECTION 38. Section 216.002, Election Code, is amended to  
22 read as follows:

23 Sec. 216.002. CONDUCT OF AUTOMATIC RECOUNT GENERALLY.  
24 Except as otherwise provided by this chapter, this title, including  
25 the notice requirement of Section 213.009, applies to a recount  
26 conducted under this chapter with appropriate modifications as  
27 prescribed by the secretary of state.

1 SECTION 39. Section 232.008(c), Election Code, is amended  
2 to read as follows:

3 (c) A contestant must file the petition not later than the  
4 10th day after the date the official result is determined in a  
5 contest of:

6 (1) a primary or runoff primary election; or

7 (2) a general or special election for which a runoff is  
8 necessary according to the official result or will be necessary if  
9 the contestant prevails.

10 SECTION 40. Section 253.167, Election Code, is amended to  
11 read as follows:

12 Sec. 253.167. CERTIFICATION OF POPULATION; NOTICE OF  
13 CONTRIBUTION AND EXPENDITURE LIMITS. (a) For purposes of this  
14 subchapter only, not later than June 1 of each odd-numbered year,  
15 the commission [~~secretary of state~~] shall:

16 (1) make [~~deliver to the commission~~] a written  
17 certification of the population of each judicial district for which  
18 a candidate for judge or justice must file a campaign treasurer  
19 appointment with the commission; and

20 (2) deliver to the county clerk of each county a  
21 written certification of the county's population, if the county:

22 (A) comprises an entire judicial district under  
23 Chapter 26, Government Code; or

24 (B) has a statutory county court or statutory  
25 probate court, other than a multicounty statutory county court  
26 created under Subchapter D, Chapter 25, Government Code.

27 (b) Following [~~On receipt of the~~] certification of

1 population under Subsection (a), the commission or county clerk, as  
2 appropriate, shall make available to each candidate for an office  
3 covered by this subchapter written notice of the contribution and  
4 expenditure limits applicable to the office the candidate seeks.

5 SECTION 41. Section 501.001, Election Code, is amended by  
6 adding Subdivision (4) to read as follows:

7 (4) "Political subdivision" includes a justice  
8 precinct.

9 SECTION 42. Section 501.023(a), Election Code, is amended  
10 to read as follows:

11 (a) If 10 or more qualified voters of any county, justice  
12 precinct, or municipality file a written application and provide  
13 proof of publication of notice in a newspaper of general  
14 circulation in that political subdivision, the county clerk of the  
15 county shall issue to the applicants a petition to be circulated  
16 among the qualified voters of the political subdivision for the  
17 signatures of those qualified voters who desire that a local option  
18 election be called for the purpose of determining whether the sale  
19 of alcoholic beverages of one or more of the various types and  
20 alcoholic contents shall be prohibited or legalized in the  
21 political subdivision. The notice must include:

22 (1) the individual or entity that is applying for the  
23 petition to gather signatures for a local option liquor election;

24 (2) the type of local option liquor election;

25 (3) the name of the political subdivision in which the  
26 petition will be circulated; and

27 (4) the name and title of the person with whom the

1 application will be filed.

2 SECTION 43. Section 501.108(a), Election Code, is amended  
3 to read as follows:

4 (a) If a county is not required to pay the initial expense,  
5 regardless of any authority to receive reimbursement, of a local  
6 option election under Section 501.107, the county clerk shall  
7 require the applicants for a petition for a local option election to  
8 make a deposit before the issuance of the petition.

9 SECTION 44. Sections 18.041, 18.042, and 145.092(c),  
10 Election Code, are repealed.

11 SECTION 45. This Act takes effect September 1, 2011.

**House Bill 2817**  
Conference Committee Report  
Section-by-Section Analysis

HOUSE VERSION	SENATE VERSION (CS)	CONFERENCE
SECTION 1. Chapter 1, Election Code, is amended by adding Section 1.016, RESIDENCE FOR CERTAIN REGISTERED VOTERS.	No equivalent provision.	Same as Senate version.
SECTION 2. Section 4.004(a), Election Code, is amended.	SECTION 1. Same as House version.	SECTION 1. Same as House version.
SECTION 3. Subchapter A, Chapter 13, Election Code, is amended by adding Section 13.008, PERFORMANCE-BASED COMPENSATION FOR REGISTERING VOTERS PROHIBITED.	No equivalent provision.	Same as Senate version.
SECTION 4. Subchapter A, Chapter 13, Election Code, is amended by adding Section 13.009, ELECTRONIC VOTER REGISTRATION.	No equivalent provision.	Same as Senate version.
SECTION 5. Section 13.031(d), Election Code, is amended to include among the eligibility requirements for appointment as a volunteer deputy registrar that a person be a registered voter and not have been finally convicted of an offense under Section 32.51, Penal Code. Removes as an eligibility requirement that the person be at least 18 years of age.	No equivalent provision.	SECTION 2. Same as House version except omits the requirement that the person be a registered voter and retains the requirement that the person be at least 18 years of age.
SECTION 6. Section 13.033(b), Election Code, relating to a certificate of appointment as a volunteer deputy registrar, is amended.	No equivalent provision.	Same as Senate version.
SECTIONS 7. Section 13.036(a), Election Code, relating to the termination of an appointment as a volunteer deputy registrar, is amended.	No equivalent provision.	Same as Senate version.
SECTIONS 8-15. Sections of Chapters 18, 19, 31, and 32,	SECTIONS 2-9. Same as House version.	SECTIONS 3-10. Same as House version.



**House Bill 2817**  
Conference Committee Report  
Section-by-Section Analysis

HOUSE VERSION	SENATE VERSION (CS)	CONFERENCE
Election Code, are amended.		
SECTION 16. Section 32.075, Election Code, is amended, relating to conditions for the removal of an alternate presiding judge from a polling place and eligibility for appointment as a special peace officer for a polling place.	No equivalent provision.	Same as Senate version.
SECTION 17. Section 33.006(b), Election Code, is amended.	SECTION 10. Same as House version.	SECTION 11. Same as House version.
SECTION 18. Subchapter A, Chapter 33, Election Code, is amended by adding Section 33.008, CONFIDENTIAL INFORMATION.	No equivalent provision.	Same as Senate version.
SECTION 19. Section 33.051(c), Election Code, is amended.	SECTION 11. Same as House version.	SECTION 12. Same as House version.
SECTION 20. Section 43.007, Election Code, relating to a countywide polling place program, is amended.	No equivalent provision.	Same as Senate version.
SECTION 21. Section 64.032, Election Code, relating to persons providing assistance to a voter in marking a ballot, is amended.	No equivalent provision.	Same as Senate version.
SECTION 22. Subchapter B, Chapter 64, Election Code, is amended by adding Section 64.0325, LIMITATION ON ASSISTANCE.	No equivalent provision.	Same as Senate version.
SECTION 23. Section 64.036(d), Election Code, relating to the offense of unlawfully providing assistance to a voter, is amended.	No equivalent provision.	Same as Senate version.

**House Bill 2817**  
Conference Committee Report  
Section-by-Section Analysis

**HOUSE VERSION**

**SENATE VERSION (CS)**

**CONFERENCE**

No equivalent provision.

SECTION 12. Section 66.058, Election Code, is amended. In the requirement that precinct election records be preserved by the authority to whom they are distributed for at least 22 months after election day, limits the applicability of that requirement to an election involving a federal office and specifies that the retention period is in accordance with federal law. Adds the requirement that such records be retained for at least six months after election day in an election not involving a federal office. Requires the secretary of state to instruct the affected authorities on the actions necessary to comply with federal law for the preservation of precinct election records in an election involving federal office and otherwise implement applicable provisions.

SECTION 13. Same as Senate version.

SECTION 24. Section 84.007(b), Election Code, is amended to remove as a condition for submitting an application for a ballot to be voted by mail to the early voting clerk by telephonic facsimile machine that the applicant be absent from the county.

SECTION 13. Section 84.007(b), Election Code, is amended to include among the delivery methods for submitting such an application a means of sending an electronic copy prescribed by the secretary of state and to remove from the delivery methods submission by telephonic facsimile machine, if the applicant is absent from the county and if a machine is available in the clerk's office.

SECTION 14. Same as House version.

SECTIONS 25-26. Sections of Chapter 85, Election Code, are amended.

SECTIONS 14-15. Same as House version.

SECTIONS 15-16. Same as House version.

SECTION 27. Subchapter C, Chapter 85, Election Code, is amended by adding Section 85.073, MOBILE VOTING STATIONS IN CERTAIN COUNTIES IN CERTAIN ELECTIONS.

No equivalent provision.

Same as Senate version.

SECTION 28. Section 86.0051, Election Code, relating to actions involving a voter's carrier envelope by a person other

No equivalent provision.

Same as Senate version.

**House Bill 2817**  
Conference Committee Report  
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (CS)

CONFERENCE

than the voter, is amended.

SECTION 29. Section 86.006(f), Election Code, relating to exemptions from provisions making it an offense to knowingly possess an official ballot or official carrier envelope provided under this code to another, is amended.

SECTION 30. Sections 86.010(g) and (h), Election Code, relating to offenses involving a person who provides unlawful assistance to a voter, are amended.

SECTION 31. Section 87.021, Election Code, is amended to remove a requirement for the early voting clerk to deliver to the early voting ballot board each ballot box, in accordance with Section 85.032(b), containing the early voting ballots voted by personal appearance and the clerk's key to each box. Removes a requirement that the statement the clerk is required to deliver to the board, along with a ballot transmittal form, include the number of names appearing on the poll lists prepared in connection with early voting by personal appearance.

SECTION 32. Subchapter B, Chapter 87, Election Code, is

No equivalent provision.

No equivalent provision.

SECTION 16. Amends Section 87.021, Election Code, to make the requirement for the early voting clerk to deliver to the early voting ballot board each ballot box containing the early voting ballots voted by personal appearance and the clerk's key to each box applicable in an election in which regular paper ballots are used for early voting by personal appearance. Makes the inclusion in the required items of the jacket envelopes containing the early voting ballots voted by mail applicable regardless of the ballot type or voting system used. Specifies that the inclusion in those items of a ballot transmittal form that includes a statement of the number of early voting ballots refers to ballots voted by mail and specifies that such a form must be delivered to the board regardless of the ballot type or voting system used. Retains the requirement that the statement include the number of names appearing on the poll lists prepared in connection with early voting by personal appearance and adds as a condition for that requirement that such voting be in an election in which regular paper ballots are used for early voting by personal appearance.

SECTION 17. Same as House version.

Same as Senate version.

Same as Senate version.

SECTION 17. Same as Senate version.

SECTION 18. Same as House version.

**House Bill 2817**  
Conference Committee Report  
Section-by-Section Analysis

HOUSE VERSION	SENATE VERSION (CS)	CONFERENCE
amended by adding Section 87.0211, <b>ELECTRONIC DELIVERY OF MATERIALS RECORDED ELECTRONICALLY.</b>		
SECTION 33. Section 87.022, Election Code, relating to the time of delivery of early voting ballots and other materials to the early voting ballot board, is amended.	No equivalent provision.	Same as Senate version.
No equivalent provision.	SECTION 18. Section 87.0221(a), Election Code, is amended to specify that the delivery of early voting ballots and other materials to the early voting ballot board during a designated period in an election in which regular paper ballots are used for early voting refers to early voting by personal appearance or by mail.	SECTION 19. Same as Senate version.
No equivalent provision.	SECTION 19. Section 87.023(a), Election Code, is amended to specify that the delivery of early voting ballots to the early voting ballot board during a designated period in an election in which early voting ballots are to be counted by automatic tabulating equipment at a central counting station refers to early voting ballots voted by mail.	SECTION 20. Same as Senate version.
SECTION 34. Section 87.0241, Election Code, relating to the processing of early voting ballots before polls open, is amended.	No equivalent provision.	Same as Senate version.
SECTION 35. Section 87.027, Election Code by adding Subsection (m) , is amended.	SECTION 20. Same as House version.	SECTION 21. Same as Senate version.
SECTION 36. Subchapter G, Chapter 87, Election Code, is amended by adding Section 87.126, <b>ELECTRONIC</b>	SECTION 21. Same as House version.	SECTION 22. Same as House version.

**House Bill 2817**  
Conference Committee Report  
Section-by-Section Analysis

HOUSE VERSION	SENATE VERSION (CS)	CONFERENCE
<b>RECORDING OF BALLOT MATERIALS AND APPLICATIONS.</b>		
SECTION 37. Section 101.001, Election Code, is amended, relating to the eligibility requirements for voting early by mail.	No equivalent provision.	Same as Senate version.
No equivalent provision.	SECTION 22. Section 101.013, Election Code, is amended to designate the secretary of state as the state coordinator between military and overseas voters and county election officials. Requires a county election official to cooperate with the secretary of state to ensure that military and overseas voters timely receive accurate balloting materials that a voter is able to cast in time for the election and otherwise comply with the federal Military and Overseas Voter Empowerment Act. Authorizes the secretary of state to adopt rules as necessary to implement this section.	SECTION 23. Same as Senate version.
SECTION 38. Section 112.002(a), Election Code, is amended.	SECTION 23. Same as House version.	SECTION 24. Same as House version.
SECTION 39. Subchapter A, Chapter 122, Election Code, is amended by adding Section 122.006, EXEMPTION FROM USE OF VOTING SYSTEM FOR CERTAIN POLITICAL SUBDIVISIONS.	No equivalent provision.	Same as Senate version.
SECTION 40. Section 127.007, Election Code, is amended.	SECTION 24. Same as House version.	SECTION 25. Same as House version.
SECTION 41. Subchapter E, Chapter 127, Election Code, is amended by adding Section 127.1311, ANNOUNCING UNOFFICIAL RESULTS.	No equivalent provision.	Same as Senate version.

**House Bill 2817**  
Conference Committee Report  
Section-by-Section Analysis

HOUSE VERSION	SENATE VERSION (CS)	CONFERENCE
SECTION 42. Section 127.201, Election Code, is amended.	SECTION 25. Same as House version.	SECTION 26. Same as House version.
SECTION 43. Section 129.023(c), Election Code, is amended.	SECTION 26. Same as House version.	SECTION 27. Same as House version.
SECTION 44. Subchapter A, Chapter 141, Election Code, is amended by adding Section 141.005, RESIDENCY REQUIREMENT IN CERTAIN POLITICAL SUBDIVISIONS.	No equivalent provision.	Same as Senate version.
SECTION 45-49. Sections of Chapters 141 and 145, Election Code, are amended.	SECTIONS 27-31. Same as House version.	SECTIONS 28-32. Same as House version.
SECTION 50. Subchapter B, Chapter 171, Election Code, is amended by adding Section 171.029, REMOVAL OF COUNTY CHAIR.	No equivalent provision.	Same as Senate version.
SECTIONS 51-54. Sections of Chapters 172 and 174, Election Code, are amended.	SECTION 32-35. Same as House version.	SECTIONS 33-36. Same as House version.
SECTION 55. Section 174.092(a), Election Code, relating to the time and place of the biennial state convention, is amended.	No equivalent provision.	Same as Senate version.
SECTIONS 56-62. Sections of Chapters 213, 216, 232, 253, and 501, Election Code, are amended.	SECTION 36-42. Same as House version.	SECTION 37-43. Same as House version.
SECTION 63. Section 573.061, Government Code, relating to general exceptions to the applicability of provisions prohibiting a public official from making certain appointments because of nepotism, is amended.	No equivalent provision.	Same as Senate version.

**House Bill 2817**  
Conference Committee Report  
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (CS)

CONFERENCE

SECTION 64. Amends the following sections of the Election Code:

Section 15.022, relating to the correction of voter registration records;

Section 63.006, relating to acceptance of a voter for voting who presents a correct voter registration certificate and whose name is not on the precinct list of registered voters;

Section 63.009, relating to acceptance of a voter for voting who does not present a voter registration certificate and whose name is not on the precinct list of registered voters;

Section 63.011, relating to provisional voting;

Section 66.0241, relating to the required precinct election records provided to the voter registrar in envelope no. 4; and

Section 85.031, relating to acceptance of a voter for early voting by personal appearance.

Repeals the following sections of the Election Code:

Section 63.005, relating to a voter registration omissions list;

Section 63.007, relating to acceptance of a voter for voting who presents an incorrect voter registration certificate and is not on the precinct list of registered voters; and

Section 63.008, relating to acceptance of a voter for voting who does not present a voter registration certificate and is on the precinct list of registered voters.

SECTION 65. Sections 18.041, 18.042, *87.0221*, *87.023*, and 145.092(c), Election Code, are repealed.

SECTION 66. Saving provision relating to the change in law made by the bill applicable to the appointment of a volunteer deputy voter registrar.

No equivalent provision.

Same as Senate version.

SECTION 43. Same as House version, except omits the repeal of Sections *87.0221* and *87.023*. Election Code.

SECTION 44. Same as House version.

No equivalent provision.

Same as Senate version.

**House Bill 2817**  
**Conference Committee Report**  
**Section-by-Section Analysis**

**HOUSE VERSION**

**SENATE VERSION (CS)**

**CONFERENCE**

**SECTION 67. Saving provision relating to the change in law made by the bill applicable to an offense.**

**No equivalent provision.**

**Same as Senate version.**

**SECTION 68. Saving provision relating to the change in law made by the bill applicable to a federal postcard application that requests a ballot for an election that is held on or after the bill's effective date.**

**No equivalent provision.**

**Same as Senate version.**

**SECTION 69. Effective date.**

**SECTION 44. Same as House version.**

**SECTION 45. Same as House version.**



**LEGISLATIVE BUDGET BOARD  
Austin, Texas**

**FISCAL NOTE, 82ND LEGISLATIVE REGULAR SESSION**

**May 28, 2011**

**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: HB2817** by Taylor, Larry (Relating to certain election practices and procedures.),  
**Conference Committee Report**

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

The bill would amend the Election Code relating to certain election practices and procedures. The bill would also repeal certain sections of the Election Code. It is anticipated that any costs associated with implementation of the legislation could be absorbed within existing resources. The bill would take effect on September 1, 2011.

**Local Government Impact**

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

**Source Agencies:**

**LBB Staff:** JOB, KJG, BTA