

1 AN ACT

2 relating to the provision of mail ballots to overseas voters and to  
3 conforming adjustments to related dates, deadlines, and  
4 procedures; prohibiting the use of certain funds for  
5 electioneering.

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

7 SECTION 1. Section 86.004, Election Code, is amended to  
8 read as follows:

9 Sec. 86.004. TIME FOR PROVIDING BALLOT TO VOTER. (a)  
10 Except as provided by Subsection (b), the [The] balloting materials  
11 for voting by mail shall be mailed to a voter entitled to vote by  
12 mail not later than the seventh calendar day after the later of the  
13 date the clerk accepts the voter's application for a ballot to be  
14 voted by mail or the date the ballots become available for mailing,  
15 except that if that mailing date is earlier than the 45th day before  
16 election day, the balloting materials shall be mailed not later  
17 than the 38th day before election day.

18 (b) For the general election for state and county officers,  
19 the balloting materials for a voter who indicates on the  
20 application for a ballot to be voted by mail or the federal postcard  
21 application that the voter is eligible to vote early by mail as a  
22 consequence of the voter's being outside the United States shall be  
23 mailed on or before the later of the 45th day before election day or  
24 the seventh calendar day after the date the clerk receives the

1 application. However, if it is not possible to mail the ballots by  
2 the deadline of the 45th day before election day, the clerk shall  
3 notify the secretary of state within 24 hours of knowing that the  
4 deadline will not be met. The secretary of state shall monitor the  
5 situation and advise the clerk, who shall mail the ballots as soon  
6 as possible in accordance with the secretary of state's guidelines.

7 SECTION 2. Section 3.005, Election Code, is amended by  
8 amending Subsection (a) and adding Subsection (c) to read as  
9 follows:

10 (a) Except as provided by Subsection (c), an [An] election  
11 ordered by an authority of a political subdivision shall be ordered  
12 not later than the 62nd day before election day.

13 (c) For an election to be held on the date of the general  
14 election for state and county officers, the election shall be  
15 ordered not later than the 70th day before election day.

16 SECTION 3. Section 143.007, Election Code, is amended by  
17 adding Subsection (c) to read as follows:

18 (c) For an election to be held on the date of the general  
19 election for state and county officers, the day of the filing  
20 deadline is the 70th day before election day.

21 SECTION 4. Section 143.008, Election Code, is amended by  
22 adding Subsection (c) to read as follows:

23 (c) This section does not apply to an election to be held on  
24 the date of the general election for state and county officers.

25 SECTION 5. Section 144.005, Election Code, is amended by  
26 amending Subsections (a) and (c) and adding Subsection (d) to read  
27 as follows:

1 (a) Except as provided by Subsection (d), an [An]  
2 application for a place on the ballot must be filed not later than 5  
3 p.m. of the 62nd day before election day.

4 (c) The governing body of a political subdivision for which  
5 a deadline for filing for candidacy is prescribed by a law outside  
6 this code shall take appropriate action to comply with Subsections  
7 [~~Subsection~~] (a) and (d) and to adjust any affected date, deadline,  
8 or procedure to allow the same interval of time in relation to the  
9 filing deadline as would be provided by application of the other  
10 law. The secretary of state shall prescribe any rules necessary to  
11 facilitate the implementation of this subsection.

12 (d) For an election to be held on the date of the general  
13 election for state and county officers, the day of the filing  
14 deadline is the 70th day before election day.

15 SECTION 6. Section 144.006, Election Code, is amended to  
16 read as follows:

17 Sec. 144.006. FILING DEADLINE FOR DECLARED WRITE-IN  
18 CANDIDATE. (a) Except as otherwise provided by law, a declaration  
19 of write-in candidacy must be filed not later than 5 p.m. of the  
20 fifth day after the date an application for a place on the ballot is  
21 required to be filed in an election in which:

22 (1) the filing deadline for an application for a place  
23 on the ballot is the 62nd [~~45th~~] day before election day; and

24 (2) write-in votes may be counted only for names  
25 appearing on a list of declared write-in candidates.

26 (b) For an election to be held on the date of the general  
27 election for state and county officers, the day of the filing

1 deadline is the 67th day before election day.

2 SECTION 7. Sections 145.032 and 145.035, Election Code, are  
3 amended to read as follows:

4 Sec. 145.032. DEADLINE FOR WITHDRAWAL. A candidate may not  
5 withdraw from the general election after the 74th [~~65th~~] day before  
6 election day.

7 Sec. 145.035. WITHDRAWN, DECEASED, OR INELIGIBLE  
8 CANDIDATE'S NAME OMITTED FROM BALLOT. A candidate's name shall be  
9 omitted from the ballot if the candidate withdraws, dies, or is  
10 declared ineligible on or before the 74th [~~65th~~] day before  
11 election day.

12 SECTION 8. Section 145.037(e), Election Code, is amended to  
13 read as follows:

14 (e) The certification must be delivered not later than 5  
15 p.m. of the 70th [~~60th~~] day before election day.

16 SECTION 9. Section 145.038(b), Election Code, is amended to  
17 read as follows:

18 (b) The state chair must deliver the certification of the  
19 replacement nominee not later than 5 p.m. of the 67th [~~57th~~] day  
20 before election day.

21 SECTION 10. Section 145.039, Election Code, is amended to  
22 read as follows:

23 Sec. 145.039. DECEASED OR INELIGIBLE CANDIDATE'S NAME TO  
24 APPEAR ON GENERAL ELECTION BALLOT. If a candidate dies or is  
25 declared ineligible after the 74th [~~65th~~] day before election day,  
26 the candidate's name shall be placed on the ballot.

27 SECTION 11. Sections 145.062, 145.064, and 145.065,

1 Election Code, are amended to read as follows:

2       Sec. 145.062. DEADLINE FOR WITHDRAWAL. A candidate may not  
3 withdraw from the general election after the 74th [~~65th~~] day before  
4 election day.

5       Sec. 145.064. WITHDRAWN, DECEASED, OR INELIGIBLE  
6 CANDIDATE'S NAME OMITTED FROM BALLOT. (a) Except as provided by  
7 Subsection (b), a candidate's name shall be omitted from the ballot  
8 if the candidate withdraws, dies, or is declared ineligible on or  
9 before the 74th [~~65th~~] day before election day.

10       (b) The name of a deceased candidate may not be omitted if:

11               (1) the decedent was the incumbent in the office for  
12 which the decedent was a candidate; or

13               (2) no other candidate's name is to appear on the  
14 ballot in the race in which the decedent was a candidate.

15       Sec. 145.065. DECEASED OR INELIGIBLE CANDIDATE'S NAME TO  
16 APPEAR ON GENERAL ELECTION BALLOT. If a candidate dies or is  
17 declared ineligible after the 74th [~~65th~~] day before election day,  
18 the candidate's name shall be placed on the ballot.

19       SECTION 12. Section 145.092, Election Code, is amended by  
20 adding Subsection (f) to read as follows:

21       (f) A candidate in an election for which the filing deadline  
22 for an application for a place on the ballot is not later than 5 p.m.  
23 of the 70th day before election day may not withdraw from the  
24 election after 5 p.m. of the 67th day before election day.

25       SECTION 13. Section 145.094(a), Election Code, is amended  
26 to read as follows:

27       (a) The name of a candidate shall be omitted from the ballot

1 if the candidate:

2 (1) dies before the second day before the date of the  
3 deadline for filing the candidate's application for a place on the  
4 ballot;

5 (2) withdraws or is declared ineligible before 5 p.m.  
6 of the second day before the beginning of early voting by personal  
7 appearance, in an election subject to Section 145.092(a); [~~or~~]

8 (3) withdraws or is declared ineligible before 5 p.m.  
9 of the 53rd day before election day, in an election subject to  
10 Section 145.092(b); or

11 (4) withdraws or is declared ineligible before 5 p.m.  
12 of the 67th day before election day, in an election subject to  
13 Section 145.092(f).

14 SECTION 14. Section 145.096(a), Election Code, is amended  
15 to read as follows:

16 (a) Except as provided by Subsection (b), a candidate's name  
17 shall be placed on the ballot if the candidate:

18 (1) dies on or after the second day before the deadline  
19 for filing the candidate's application for a place on the ballot;

20 (2) is declared ineligible after 5 p.m. of the second  
21 day before the beginning of early voting by personal appearance, in  
22 an election subject to Section 145.092(a); [~~or~~]

23 (3) is declared ineligible after 5 p.m. of the 53rd day  
24 before election day, in an election subject to Section 145.092(b);  
25 or

26 (4) is declared ineligible after 5 p.m. of the 67th day  
27 before election day, in an election subject to Section 145.092(f).

1 SECTION 15. Section 145.097, Election Code, is amended to  
2 read as follows:

3 Sec. 145.097. HOME-RULE CITY CANDIDATE. Provisions  
4 governing the withdrawal, death, or ineligibility of candidates for  
5 city offices prescribed by a home-rule city charter supersede this  
6 chapter to the extent of any conflict, except that this subchapter  
7 prevails in regard to an election subject to Section 145.092(f).

8 SECTION 16. Sections 146.025(a) and (b), Election Code, are  
9 amended to read as follows:

10 (a) A declaration of write-in candidacy must be filed not  
11 later than 5 p.m. of the 70th [~~60th~~] day before general election  
12 day, except as otherwise provided by this code. A declaration may  
13 not be filed earlier than the 30th day before the date of the  
14 regular filing deadline.

15 (b) If a candidate whose name is to appear on the general  
16 election ballot dies or is declared ineligible after the third day  
17 before the date of the filing deadline prescribed by Subsection  
18 (a), a declaration of write-in candidacy for the office sought by  
19 the deceased or ineligible candidate may be filed not later than 5  
20 p.m. of the 67th [~~57th~~] day before election day.

21 SECTION 17. Section 146.029(c), Election Code, is amended  
22 to read as follows:

23 (c) Not later than the 62nd [~~55th~~] day before election day,  
24 the certifying authority shall deliver the certification to the  
25 authority responsible for having the official ballot prepared in  
26 each county in which the office sought by the candidate is to be  
27 voted on.

1 SECTION 18. Sections 146.0301(a) and (d), Election Code,  
2 are amended to read as follows:

3 (a) A write-in candidate may not withdraw from the election  
4 after the 67th [~~46th~~] day before election day.

5 (d) A candidate's name shall be omitted from the list of  
6 write-in candidates if the candidate withdraws on or before the  
7 67th [~~46th~~] day before election day.

8 SECTION 19. Section 146.054, Election Code, is amended to  
9 read as follows:

10 Sec. 146.054. FILING DEADLINE. (a) Except as provided by  
11 Subsection (b), a [A] declaration of write-in candidacy must be  
12 filed not later than 5 p.m. of the fifth day after the date an  
13 application for a place on the ballot is required to be filed.

14 (b) For an election to be held on the date of the general  
15 election for state and county officers, the day of the filing  
16 deadline is the 67th day before election day.

17 SECTION 20. Section 161.008(b), Election Code, is amended  
18 to read as follows:

19 (b) Not later than the 62nd [~~55th~~] day before general  
20 election day, the secretary of state shall deliver the  
21 certification to the authority responsible for having the official  
22 general election ballot prepared in each county in which the  
23 candidate's name is to appear on the ballot.

24 SECTION 21. Section 192.031, Election Code, is amended to  
25 read as follows:

26 Sec. 192.031. PARTY CANDIDATE'S ENTITLEMENT TO PLACE ON  
27 BALLOT. A political party is entitled to have the names of its



1 nominees for president and vice-president of the United States  
2 placed on the ballot in a presidential general election if:

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

5 (2) before 5 p.m. of the 70th [~~60th~~] day before  
6 presidential election day, the party's state chair signs and  
7 delivers to the secretary of state a written certification of:

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

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

14 (3) the party is:

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

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

19 SECTION 22. Section 192.033(b), Election Code, is amended  
20 to read as follows:

21 (b) Not later than the 62nd [~~55th~~] day before presidential  
22 election day, the secretary of state shall deliver the  
23 certification to the authority responsible for having the official  
24 ballot prepared in each county.

25 SECTION 23. Section 192.062(a), Election Code, is amended  
26 to read as follows:

27 (a) The secretary of state shall certify in writing for

1 placement on the ballot the name of a political party's replacement  
2 nominee for president or vice-president of the United States if:

3 (1) the original nominee withdraws, dies, or is  
4 declared ineligible on or before the 74th [~~65th~~] day before  
5 presidential election day; and

6 (2) the party's state chair delivers certification of  
7 the replacement nominee's name, signed by the state chair, to the  
8 secretary of state not later than 5 p.m. of the 70th [~~60th~~] day  
9 before presidential election day.

10 SECTION 24. Section 192.063(a), Election Code, is amended  
11 to read as follows:

12 (a) The name of an independent presidential candidate and  
13 the name of the candidate's running mate shall be omitted from the  
14 ballot if the presidential candidate withdraws, dies, or is  
15 declared ineligible on or before the 74th [~~65th~~] day before  
16 presidential election day.

17 SECTION 25. Section 192.064(a), Election Code, is amended  
18 to read as follows:

19 (a) The secretary of state shall certify in writing for  
20 placement on the ballot the name of a replacement vice-presidential  
21 running mate for an independent candidate for president of the  
22 United States if:

23 (1) the original running mate withdraws, dies, or is  
24 declared ineligible on or before the 74th [~~65th~~] day before  
25 presidential election day; and

26 (2) the independent presidential candidate delivers  
27 certification of the replacement running mate's name, signed by the

1 presidential candidate, to the secretary of state not later than 5  
2 p.m. of the 70th [~~60th~~] day before presidential election day.

3 SECTION 26. Section 201.051, Election Code, is amended to  
4 read as follows:

5 Sec. 201.051. TIME FOR ORDERING ELECTION. (a) If a vacancy  
6 in office is to be filled by special election, the election shall be  
7 ordered as soon as practicable after the vacancy occurs, subject to  
8 Subsection (b).

9 (b) For a vacancy to be filled by a special election to be  
10 held on the date of the general election for state and county  
11 officers, the election shall be ordered not later than the 70th day  
12 before election day.

13 SECTION 27. Section 201.054, Election Code, is amended by  
14 amending Subsection (a) and adding Subsection (f) to read as  
15 follows:

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

19 (1) 5 p.m. of the 67th day before election day, if  
20 election day is on or after the 70th day after the date the election  
21 is ordered;

22 (2) 5 p.m. of the 31st day before election day, if  
23 election day is on or after the 36th day and before the 70th day  
24 after the date the election is ordered; or

25 (3) [~~42~~] 5 p.m. of a day fixed by the authority  
26 ordering the election, which day must be not earlier than the fifth  
27 day after the date the election is ordered and not later than the

1 20th day before election day, if election day is before the 36th day  
2 after the date the election is ordered.

3 (f) For a special election to be held on the date of the  
4 general election for state and county officers, the day of the  
5 filing deadline is the 67th day before election day.

6 SECTION 28. Section 202.002, Election Code, is amended to  
7 read as follows:

8 Sec. 202.002. VACANCY FILLED AT GENERAL ELECTION. (a) If a  
9 vacancy occurs on or before the 74th [~~65th~~] day before the general  
10 election for state and county officers held in the next-to-last  
11 even-numbered year of a term of office, the remainder of the  
12 unexpired term shall be filled at the next general election for  
13 state and county officers, as provided by this chapter.

14 (b) If a vacancy occurs after the 74th [~~65th~~] day before a  
15 general election day, an election for the unexpired term may not be  
16 held at that general election. The appointment to fill the vacancy  
17 continues until the next succeeding general election and until a  
18 successor has been elected and has qualified for the office.

19 SECTION 29. Section 202.007(a), Election Code, is amended  
20 to read as follows:

21 (a) If a vacancy occurs after runoff primary election day,  
22 an independent candidate for the unexpired term must file the  
23 application for a place on the ballot not later than 5 p.m. of the  
24 30th day after the date the vacancy occurs or 5 p.m. of the 70th  
25 [~~60th~~] day before general election day, whichever is earlier.

26 SECTION 30. Section 11.055, Education Code, is amended by  
27 amending Subsection (a) and adding Subsection (c) to read as

1 follows:

2 (a) Except as provided by Subsection (c), an [An]  
3 application of a candidate for a place on the ballot must be filed  
4 not later than 5 p.m. of the 62nd day before the date of the  
5 election. An application may not be filed earlier than the 30th day  
6 before the date of the filing deadline.

7 (c) For an election to be held on the date of the general  
8 election for state and county officers, the day of the filing  
9 deadline is the 70th day before election day.

10 SECTION 31. Section 11.056, Education Code, is amended by  
11 amending Subsection (b) and adding Subsection (e) to read as  
12 follows:

13 (b) Except as provided by Subsection (e), a [A] declaration  
14 of write-in candidacy must be filed not later than 5 p.m. of the  
15 fifth day after the date an application for a place on the ballot is  
16 required to be filed.

17 (e) For an election to be held on the date of the general  
18 election for state and county officers, the day of the filing  
19 deadline is the 67th day before election day.

20 SECTION 32. Subchapter D, Chapter 11, Education Code, is  
21 amended by adding Section 11.168 to read as follows:

22 Sec. 11.168. ELECTIONEERING PROHIBITED. Notwithstanding  
23 any other law, the board of trustees of an independent school  
24 district may not use state or local funds or other resources of the  
25 district to electioneer for or against any candidate, measure, or  
26 political party.

27 SECTION 33. Section 130.0825, Education Code, is amended by

1 amending Subsection (b) and adding Subsection (e) to read as  
2 follows:

3 (b) Except as provided by Subsection (e), a [A] declaration  
4 of write-in candidacy must be filed not later than 5 p.m. of the  
5 fifth day after the date an application for a place on the ballot is  
6 required to be filed.

7 (e) For an election to be held on the date of the general  
8 election for state and county officers, the day of the filing  
9 deadline is the 67th day before election day.

10 SECTION 34. Section 285.131, Health and Safety Code, is  
11 amended by amending Subsection (d) and adding Subsection (g) to  
12 read as follows:

13 (d) Except as provided by Subsection (g), a [A] declaration  
14 of write-in candidacy must be filed not later than 5 p.m. of the  
15 fifth day after the date an application for a place on the ballot is  
16 required to be filed.

17 (g) For an election to be held on the date of the general  
18 election for state and county officers, the day of the filing  
19 deadline is the 67th day before election day.

20 SECTION 35. Section 63.0945, Water Code, is amended by  
21 amending Subsection (d) and adding Subsection (f) to read as  
22 follows:

23 (d) Except as provided by Subsection (f), a [A] declaration  
24 of write-in candidacy must be filed not later than 5 p.m. of the  
25 fifth day after the date an application for a place on the ballot is  
26 required to be filed.

27 (f) For an election to be held on the date of the general

1 election for state and county officers, the day of the filing  
2 deadline is the 67th day before election day.

3 SECTION 36. The secretary of state shall adopt rules as  
4 necessary to implement this Act, including the adjustment of any  
5 affected date, deadline, or procedure.

6 SECTION 37. This Act takes effect September 1, 2005.

David Newhart

President of the Senate

Jim Cradick

Speaker of the House

I certify that H.B. No. 2339 was passed by the House on May 12, 2005, by a non-record vote; and that the House concurred in Senate amendments to H.B. No. 2339 on May 27, 2005, by a non-record vote.

Robert Haney  
Chief Clerk of the House

I certify that H.B. No. 2339 was passed by the Senate, with amendments, on May 25, 2005, by the following vote: Yeas 31, Nays 0.

Datsy Spaw  
Secretary of the Senate

APPROVED: 18 JUNE '05

Date

Rick Perry  
Governor

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SECRETARY OF STATE  
CLOCK  
Roger Williams  
JUN 18 2005  
12:20 PM  
Secretary of State