

Memo

To: Mayor and Town Council
From: Kathy Dewey
Date: 07/22/2011
Re: May 2012 Election

This week, I attended a meeting at the Dallas County Elections Department regarding SB 100. All cities and school districts May elections in even numbered years have been hit with a jolt from SB 100. TML has presented a couple of seminars so far to try and help everyone figure out how to handle the impacts of the new legislation and there is information available at legal on their website.

Dallas County notified us in June that they would not be able to contract with Sunnyvale for elections in even numbered years due to the other elections running at the same time. In the meeting on Tuesday, Dallas County Elections has changed their decision. It will be possible for them to conduct elections for cities and school districts in Dallas County with a few alterations. The costs for May 2012 will be slightly increased due to their having to purchase an additional 200 voting machines and early voting locations will be restricted to 25 county locations.

E-mails with specific costs will be available to the cities and schools the second week of August 2011 after the elections coordinator returns from meetings at the Secretary of State's office the first week in August to be updated on specific changes to the voting machines.

I urge you to consider continuing to contract with Dallas County Elections for Sunnyvale elections due to the passion of Sunnyvale voters. We saw a 40% turn-out in the May 2011 election while nearly everyone else in Dallas County was lucky to have 4-5%.

Kathy

TEXAS SECRETARY of STATE

HOPE ANDRADE

Holiday Notice: The Office of the Texas Secretary of State will be closed Monday, July 4th in observance of Independence Day. The office will resume normal operating hours of 8:00 a.m. to 5:00 p.m. Tuesday, July 5th. Electronic filing and searching of business documents via [SOSDirect](#) is available 24/7.

Note - Navigational menus along with other non-content related elements have been removed for your convenience. Thank you for visiting us online.

Election Advisory No. 2011-09

To: All County, City, School District, and Other Political Subdivision
Election Officials

From: Ann McGeehan, Director of Elections

Date: June 24, 2011

RE: Legislative Implementation of the federal Military and Overseas
Voter Empowerment Act and the Impact on the Texas Election
Calendar

To comply with the federal Military and Overseas Voter Empowerment Act (MOVE), the Texas Legislature enacted Senate Bill 100 (SB 100) in the 82nd Regular Session. This Advisory is intended to provide a basic summary and notice of the impact on the 2012 election calendar. SB 100 does not apply to the November 8, 2011 election. Our office will soon provide more detailed information concerning all the new requirements.

As required by MOVE, SB 100 enhances the voting process for military and overseas voters who may encounter obstacles and time delays with the standard vote by mail process. SB 100 requires ballots to be mailed or emailed to military and overseas voters no later than the 45th day before the election. This requirement applies to:

1. All elections in which a federal office appears on the ballot;
2. Elections to fill a vacancy in the state legislature, unless the election is an emergency or expedited;
and
3. An election held jointly with an election described in (1) or (2).

In addition, SB 100 provides that a Federal Postcard Application is effective for a single calendar year instead of the previous effective period of two federal general elections.

The mandate to mail ballots 45 days before an election has a significant impact on the entire election calendar. For example, although primary elections will continue to be the first Tuesday in March, runoff primary elections are moved from the second Tuesday in April to the fourth Tuesday in May.

SB 100 also affects the May uniform election date which now falls between the March primary and the May primary runoff. Early voting for the primary runoff begins two days after the May uniform election date. SB 100 limits the May uniform election date in even-numbered years to only non-county elections. The May uniform election date in odd-numbered years is unaffected.

The deadlines to order elections and the deadlines to file an application for place on the ballot are also adjusted. Below is a summary of the new 2012 election dates and deadlines:

Deadline to file an application for place on the primary ballot	December 12, 2011
Deadline to conduct primary ballot drawing	December 20, 2011
Deadline to mail ballots to MOVE voters for primary	January 21, 2012
Primary Early Voting Period	February 21-March 2, 2012
Deadline to file an application for place on the May ballot	March 5, 2012
PRIMARY ELECTION DAY	March 6, 2012
Deadline to mail ballots to MOVE voters for runoff	April 7, 2012
May uniform election day early voting period	April 30 – May 8, 2012
MAY UNIFORM ELECTION DAY (Limited)	May 12, 2012
Primary Runoff Early Voting Period	May 14 – 18, 2012
PRIMARY Runoff Election Day	May 22, 2012

Cities, schools or other political subdivisions that hold a general election in May of even-numbered years are urged to contact their county election officials soon to determine if county election officials will be able to contract to either conduct the election or lease voting equipment in May of even-numbered years. County election officials are not required to contract to conduct elections in May of even-numbered years. Similarly, counties are not required to lease voting equipment if doing so jeopardizes the equipment's availability for county elections.

SB 100 does not require a political subdivision to change its general election date but it does allow a political subdivision to change to the November uniform election date or to May of an odd-numbered year. Consistent with legislative intent, the Office of the Secretary of State will likely adopt an administrative rule clarifying that a political subdivision may move its general election date from May of an even-numbered year to May of an odd-numbered year.

In addition, SB 100 contains the following provisions to facilitate a change in election date and/or a change to the term of office:

- A home rule city may pass a resolution to change the general election date or to provide for the election of all members of the governing body at the same election. The resolution supersedes any charter provision to the contrary.
- A school board may adopt a resolution no later than December 31, 2011 that changes the length of trustees' terms. The resolution must provide for staggered terms of either three or four years, and the transition must begin with the first regular election occurring after January 1, 2012.
- A general law municipality whose governing body serves one or three year terms or staggered terms may adopt a resolution no later than December 31, 2012, changing the length of term to two years or providing for the election of all members of the governing body at the same election.
- Any political subdivision that elects the members of its governing body to a term that consists of odd-numbered years may adopt a resolution no later than December 31, 2012, changing the length of the term to an even number of years.

While more detailed information is forthcoming, we wanted to alert you to the election calendar changes so that you can begin to assess the impact on your election calendar. If you have any questions or need additional information, please contact the Elections Division at 1-800-252-VOTE (8683).

AN ACT

relating to the adoption of certain voting procedures and to certain elections, including procedures necessary to implement the federal Military and Overseas Voter Empowerment Act, deadlines for declaration of candidacy and dates for certain elections, and to terms of certain elected officials.

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

SECTION 1. Chapter 101, Election Code, is amended to read as follows:

CHAPTER 101. VOTING BY RESIDENT FEDERAL POSTCARD APPLICANT

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 101.001. ELIGIBILITY. A person is eligible for early voting by mail as provided by this chapter if:

- (1) the person is qualified to vote in this state or, if

S.B. No. 100

not registered to vote in this state, would be qualified if registered; and

(2) the person is:

(A) a member of the armed forces of the United States, or the spouse or a dependent of a member;

(B) a member of the merchant marine of the United States, or the spouse or a dependent of a member; or

(C) domiciled in this state but temporarily living outside the territorial limits of the United States and the District of Columbia.

Sec. 101.002. GENERAL CONDUCT OF VOTING. Voting under this chapter shall be conducted and the results shall be processed as provided by Subtitle A for early voting by mail, except as otherwise provided by this chapter.

Sec. 101.003. DEFINITIONS. ~~[FORM AND CONTENTS OF APPLICATION. (a) An application for a ballot to be voted under this chapter must:~~

~~[(1) be submitted on an official federal postcard~~

~~application form; and~~

~~[(2) include the information necessary to indicate that the applicant is eligible to vote in the election for which the ballot is requested.~~

~~[(b)]~~ In this chapter:

(1) "Federal ~~[, "federal]~~ postcard application" means an application for a ballot to be voted under this chapter submitted on the official federal form prescribed under the federal Uniformed and Overseas Citizens Absentee Voting Act (42 U.S.C. Section 1973ff et seq.).

(2) "FPCA registrant" means a person registered to vote under Section 101.055.

Sec. 101.004. NOTING FPCA REGISTRATION ON POLL LIST. For each FPCA registrant accepted to vote, a notation shall be made beside the voter's name on the early voting poll list indicating that the voter is an FPCA registrant.

Sec. 101.005. NOTING FPCA REGISTRATION AND E-MAIL ON EARLY VOTING ROSTER. The entry on the early voting roster pertaining to

S.B. No. 100

a voter under this chapter who is an FPCA registrant must include a notation indicating that the voter is an FPCA registrant. The early voting clerk shall note on the early voting by mail roster each e-mail of a ballot under Subchapter C.

Sec. 101.006. EXCLUDING FPCA REGISTRANT FROM PRECINCT EARLY VOTING LIST. A person to whom a ballot is provided under this chapter is not required to be included on the precinct early voting list if the person is an FPCA registrant.

Sec. 101.007. DESIGNATION OF SECRETARY OF STATE. (a) The secretary of state is designated as the state office to provide information regarding voter registration procedures and absentee ballot procedures, including procedures related to the federal write-in absentee ballot, to be used by persons eligible to vote under the federal Uniformed and Overseas Citizens Absentee Voting Act (42 U.S.C. Section 1973ff et seq.).

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

S.B. No. 100

(1) 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

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

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

Sec. 101.008. STATUS OF APPLICATION OR BALLOT VOTED. The secretary of state, in coordination with local election officials, shall implement an electronic free-access system by which a person eligible for early voting by mail under this chapter or Chapter 114 may determine by telephone, by e-mail, or over the Internet whether:

(1) the person's federal postcard application or other registration or ballot application has been received and accepted; and

(2) the person's ballot has been received and the current status of the ballot.

SUBCHAPTER B. SUBMISSION OF FEDERAL POSTCARD APPLICATION

Sec. 101.051. FORM AND CONTENTS OF APPLICATION. An application for a ballot to be voted under this subchapter must:

(1) be submitted on an official federal postcard application form; and

(2) include the information necessary to indicate that the applicant is eligible to vote in the election for which the ballot is requested.

Sec. 101.052 [~~101.004~~]. SUBMITTING APPLICATION. (a) A federal postcard application must be submitted to the early voting clerk for the election who serves the election precinct of the applicant's residence.

(a-1) A federal postcard application must be submitted by:

(1) mail; or

(2) electronic transmission of an image of the application under procedures prescribed by the secretary of state.

(b) A federal postcard application may be submitted at any time during the calendar year in which the election for which a ballot is requested occurs, but not later than the deadline for submitting a regular application for a ballot to be voted by mail.

(c) A federal postcard application requesting a ballot for an election to be held in January or February may be submitted in the preceding calendar year but not earlier than the earliest date for submitting a regular application for a ballot to be voted by mail.

(d) A timely application that is addressed to the wrong early voting clerk shall be forwarded to the proper early voting clerk not later than the day after the date it is received by the wrong clerk.

(e) An applicant who otherwise complies with applicable requirements is entitled to receive a full ballot to be voted by mail under this chapter if:

(1) the applicant submits a federal postcard application to the early voting clerk on or before the 20th day before election day; and

(2) the application contains the information that is required for registration under Title 2.

(f) The applicant is entitled to receive only a federal ballot to be voted by mail under Chapter 114 if:

(1) the applicant submits the federal postcard application to the early voting clerk after the date provided by Subsection (e)(1) and before the sixth day before election day; and

(2) the application contains the information that is required for registration under Title 2.

(g) An applicant who submits a federal postcard application to the early voting clerk on or after the sixth day before election day is not entitled to receive a ballot by mail for that election.

(h) If the applicant submits the federal postcard application within the time prescribed by Subsection (f)(1) and is a registered voter at the address contained on the application, the applicant is entitled to receive a full ballot to be voted by mail under this chapter.

(i) Except as provided by Subsections (l) and (m), for

purposes of determining the date a federal postcard application is submitted to the early voting clerk, an application is considered to be submitted on the date it is placed and properly addressed in the United States mail. An application mailed from an Army/Air Force Post Office (APO) or Fleet Post Office (FPO) is considered placed in the United States mail. The date indicated by the post office cancellation mark, including a United States military post office cancellation mark, is considered to be the date the application was placed in the mail unless proven otherwise. For purposes of an application made under Subsection (e):

(1) an application that does not contain a cancellation mark is considered to be timely if it is received by the early voting clerk on or before the 15th day before election day; and

(2) if the 20th day before the date of an election is a Saturday, Sunday, or legal state or national holiday, an application is considered to be timely if it is submitted to the early voting clerk on or before the next regular business day.

(j) If the early voting clerk determines that an application

that is submitted before the time prescribed by Subsection (e)(1) does not contain the information that is required for registration under Title 2, the clerk shall notify the applicant of that fact. If the applicant has provided a telephone number or an address for receiving mail over the Internet, the clerk shall notify the applicant by that medium.

(k) If the applicant submits the missing information before the time prescribed by Subsection (e)(1), the applicant is entitled to receive a full ballot to be voted by mail under this chapter. If the applicant submits the missing information after the time prescribed by Subsection (e)(1), the applicant is entitled to receive a full ballot to be voted by mail for the next election that occurs:

(1) in the same calendar year; and

(2) after the 30th day after the date the information is submitted.

(l) For purposes of determining the end of the period that an application may be submitted under Subsection (f)(1), an

S.B. No. 100

application is considered to be submitted at the time it is received by the early voting clerk.

(m) The secretary of state by rule shall establish the date on which a federal postcard application is considered to be electronically submitted to the early voting clerk.

Sec. 101.053 [~~101.0041~~]. ACTION BY EARLY VOTING CLERK ON CERTAIN APPLICATIONS. The early voting clerk shall notify the voter registrar of a federal postcard application submitted by an applicant that states a voting residence address located outside the registrar's county.

Sec. 101.054 [~~101.005~~]. APPLYING FOR MORE THAN ONE ELECTION IN SAME APPLICATION. (a) A person may apply with a single federal postcard application for a ballot for any one or more elections in which the early voting clerk to whom the application is submitted conducts early voting.

(b) An application that does not identify the election for which a ballot is requested shall be treated as if it requests a ballot for:

(1) each general election in which the clerk conducts early voting; and

(2) the general primary election if the application indicates party preference and is submitted to the early voting clerk for the primary.

(c) An application shall be treated as if it requests a ballot for[+]

~~[(1)] a runoff election that results from an election for which a ballot is requested[+ and~~

~~[(2) each election for a federal office, including a primary or runoff election, that occurs on or before the date of the second general election for state and county officers that occurs after the date the application is submitted].~~

(d) An application requesting a ballot for more than one election shall be preserved for the period for preserving the precinct election records for the last election for which the application is effective.

Sec. 101.055 [~~101.006~~]. FPCA VOTER REGISTRATION. (a) The

submission of a federal postcard application that complies with the applicable requirements by an unregistered applicant constitutes registration by the applicant:

(1) for the purpose of voting in the election for which a ballot is requested; and

(2) under Title 2 unless the person indicates on the application that the person is residing outside the United States indefinitely.

(b) For purposes of registering to vote under this chapter, a person shall provide the address of the last place of residence of the person in this state or the last place of residence in this state of the person's parent or legal guardian.

(c) The registrar shall register the person at the address provided under Subsection (b) unless that address no longer is recognized as a residential address, in which event the registrar shall assign the person to an address under procedures prescribed by the secretary of state [~~In this chapter, "FPCA registrant" means a person registered to vote under this section~~].

Sec. 101.056 [~~101.007~~]. METHOD OF PROVIDING BALLOT; REQUIRED ADDRESS. (a) The balloting materials provided under this subchapter [~~chapter~~] shall be airmailed to the voter free of United States postage, as provided by the federal Uniformed and Overseas Citizens Absentee Voting Act (42 U.S.C. Section 1973ff et seq.), in an envelope labeled "Official Election Balloting Material - via Airmail." The secretary of state shall provide early voting clerks with instructions on compliance with this subsection.

(b) The address to which the balloting materials are sent to a voter must be:

(1) an address outside the county of the voter's residence; or

(2) an address in the United States for forwarding or delivery to the voter at a location outside the United States.

(c) If the address to which the balloting materials are to be sent is within the county served by the early voting clerk, the federal postcard application must indicate that the balloting materials will be forwarded or delivered to the voter at a location

outside the United States.

Sec. 101.057 [~~101.008~~]. RETURN OF VOTED BALLOT. A ballot voted under this subchapter [~~chapter~~] may be returned to the early voting clerk by mail, common or contract carrier, or courier.

~~[Sec. 101.009. NOTING FPCA REGISTRATION ON POLL LIST. For each FPCA registrant accepted to vote, a notation shall be made beside the voter's name on the early voting poll list indicating that the voter is an FPCA registrant.]~~

~~[Sec. 101.010. NOTING FPCA REGISTRATION ON EARLY VOTING ROSTER. The entry on the early voting roster pertaining to a voter under this chapter who is an FPCA registrant must include a notation indicating that the voter is an FPCA registrant.]~~

~~[Sec. 101.011. EXCLUDING FPCA REGISTRANT FROM PRECINCT EARLY VOTING LIST. A person to whom a ballot is provided under this chapter is not required to be included on the precinct early voting list if the person is an FPCA registrant.]~~

Sec. 101.058 [~~101.012~~]. OFFICIAL CARRIER ENVELOPE. The officially prescribed carrier envelope for voting under this

S.B. No. 100

subchapter [~~chapter~~] shall be prepared so that it can be mailed free of United States postage, as provided by the federal Uniformed and Overseas Citizens Absentee Voting Act (42 U.S.C. Section 1973ff et seq.) [~~Federal Voting Assistance Act of 1955~~], and must contain the label prescribed by Section 101.056(a) [~~101.007(a)~~] for the envelope in which the balloting materials are sent to a voter. The secretary of state shall provide early voting clerks with instructions on compliance with this section.

SUBCHAPTER C. E-MAIL TRANSMISSION OF BALLOTING MATERIALS

Sec. 101.101. PURPOSE. The purpose of this subchapter is to implement the federal Military and Overseas Voter Empowerment Act (Pub. L. No. 111-84, Div. A, Title V, Subt. H).

Sec. 101.102. REQUEST FOR BALLOTING MATERIALS. (a) A person eligible to vote under this chapter may request from the appropriate early voting clerk e-mail transmission of balloting materials under this subchapter.

(b) The early voting clerk shall grant a request made under this section for the e-mail transmission of balloting materials if:

(1) the requestor has submitted a valid federal postcard application and:

(A) if the requestor is a person described by Section 101.001(2)(C), has provided a current mailing address that is located outside the United States; or

(B) if the requestor is a person described by Section 101.001(2)(A) or (B), has provided a current mailing address that is located outside the requestor's county of residence;

(2) the requestor provides an e-mail address:

(A) that corresponds to the address on file with the requestor's federal postcard application; or

(B) stated on a newly submitted federal postcard application;

(3) the request is submitted on or before the seventh day before the date of the election; and

(4) a marked ballot for the election from the requestor has not been received by the early voting clerk.

Sec. 101.103. CONFIDENTIALITY OF E-MAIL ADDRESS. An e-mail address used under this subchapter to request balloting materials is confidential and does not constitute public information for purposes of Chapter 552, Government Code. An early voting clerk shall ensure that a voter's e-mail address provided under this subchapter is excluded from public disclosure.

Sec. 101.104. ELECTIONS COVERED. The e-mail transmission of balloting materials under this subchapter is limited to:

(1) an election in which an office of the federal government appears on the ballot, including a primary election;

(2) an election to fill a vacancy in the legislature

unless:

(A) the election is ordered as an emergency election under Section 41.0011; or

(B) the election is held as an expedited election under Section 203.013; or

(3) an election held jointly with an election described by Subdivision (1) or (2).

Sec. 101.105. BALLOTING MATERIALS TO BE SENT BY E-MAIL.

Balloting materials to be sent by e-mail under this subchapter include:

(1) the appropriate ballot;

(2) ballot instructions, including instructions that inform a voter that the ballot must be returned by mail to be counted;

(3) instructions prescribed by the secretary of state on:

(A) how to print a return envelope from the federal Voting Assistance Program website; and

(B) how to create a carrier envelope or signature sheet for the ballot; and

(4) a list of certified write-in candidates, if applicable.

Sec. 101.106. METHODS OF TRANSMISSION TO VOTER. (a) The balloting materials may be provided by e-mail to the voter in PDF format, through a scanned format, or by any other method of

electronic transmission authorized by the secretary of state in writing.

(b) The secretary of state shall prescribe procedures for the retransmission of balloting materials following an unsuccessful transmission of the materials to a voter.

Sec. 101.107. RETURN OF BALLOT. (a) A voter described by Section 101.001(2)(A) or (B) must be voting from outside the voter's county of residence. A voter described by Section 101.001(2)(C) must be voting from outside the United States.

(b) A voter who receives a ballot under this subchapter must return the ballot in the same manner as required under Section 101.057 and, except as provided by Chapter 105, may not return the ballot by electronic transmission.

(c) A ballot that is not returned as required by Subsection (b) is considered a ballot not timely returned and is not sent to the early voting ballot board for processing.

(d) The deadline for the return of a ballot under this section is the same deadline as provided in Section 86.007.

Sec. 101.108. TRACKING OF BALLOTING MATERIALS. The secretary of state by rule shall create a tracking system under which an FPCA registrant may determine whether a voted ballot has been received by the early voting clerk. Each county that sends ballots to FPCA registrants shall provide information required by the secretary of state to implement the system.

Sec. 101.109. RULES. (a) The secretary of state may adopt rules as necessary to implement this subchapter.

(b) The secretary of state may provide for an alternate secure method of electronic ballot transmission under this subchapter instead of transmission by e-mail

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

SECTION 2. Section 2.025, Election Code, is amended by amending Subsection (a) and adding Subsection (d) to read as follows:

(a) Except as provided by Subsection (d) or as otherwise provided by this code, a runoff election shall be held not earlier than the 20th or later than the 45th day after the date the final canvass of the main election is completed.

(d) A runoff election for a special election to fill a vacancy in Congress or a special election to fill a vacancy in the legislature to which Section 101.104 applies shall be held not earlier than the 70th day or later than the 77th day after the date the final canvass of the main election is completed.

SECTION 3. Subsection (c), Section 3.005, Election Code, is amended to read as follows:

(c) For an election to be held on:
(1) the date of the general election for state and county officers, the election shall be ordered not later than the 78th [70th] day before election day; and

(2) a uniform election date other than the date of the general election for state and county officers, the election shall be ordered not later than the 71st day before election day.

SECTION 4. Section 41.001, Election Code, is amended by amending Subsection (a) and adding Subsection (d) to read as follows:

(a) Except as otherwise provided by this subchapter, each general or special election in this state shall be held on one of the following dates:

(1) the second Saturday in May in an odd-numbered year;

(2) the second Saturday in May in an even-numbered year,

for an election held by a political subdivision other than a county; or

(3) [~~2~~] the first Tuesday after the first Monday in November.

(d) Notwithstanding Section 31.093, a county elections administrator is not required to enter into a contract to furnish election services for an election held on the date described by

Subsection (a)(2).

SECTION 5. Section 41.0052, Election Code, is amended to read as follows:

Sec. 41.0052. CHANGING GENERAL ELECTION DATE. (a) ~~[The governing body of a political subdivision other than a county may, not later than December 31, 2005, change the date on which it holds its general election for officers to another authorized uniform election date.~~

~~[(a-1)]~~ The governing body of a political subdivision, other than a county, that holds its general election for officers on a date other than the November uniform election date may, not later than December 31, 2012 ~~[2010]~~, change the date on which it holds its general election for officers to the November uniform election date.

(b) A governing body changing an election date under this section shall adjust the terms of office to conform to the new election date.

(c) A home-rule city may implement the change authorized by

Subsection (a) or provide for the election of all members of the governing body at the same election through the adoption of a resolution. The change contained in the resolution supersedes a city charter provision that requires a different general election date or that requires the terms of members of the governing body to be staggered.

(d) The holdover of a member of a governing body of a city in accordance with Section 17, Article XVI, Texas Constitution, so that a term of office may be conformed to a new election date chosen under this section does not constitute a vacancy for purposes of Section 11(b), Article XI, Texas Constitution.

SECTION 6. Subsection (b), Section 41.007, Election Code, is amended to read as follows:

(b) The runoff primary election date is the fourth Tuesday in May [~~second Tuesday in April~~] following the general primary election.

SECTION 7. Section 65.051, Election Code, is amended by adding Subsection (c) to read as follows:

(c) Section 1.006 does not apply to this section.

SECTION 8. Subsection (b), Section 86.004, Election Code, is amended to read as follows:

(b) For an election to which Section 101.104 applies [~~the general election for state and county officers~~], the balloting materials for a voter who indicates on the application for a ballot to be voted by mail or the federal postcard application that the voter is eligible to vote early by mail as a consequence of the voter's being outside the United States shall be mailed on or before the later of the 45th day before election day or the seventh calendar day after the date the clerk^s receives the application. However, if it is not possible to mail the ballots by the deadline of the 45th day before election day, the clerk shall notify the secretary of state within 24 hours of knowing that the deadline will not be met. The secretary of state shall monitor the situation and advise the clerk, who shall mail the ballots as soon as possible in accordance with the secretary of state's guidelines.

SECTION 9. Subsection (b), Section 86.011, Election Code, is

amended to read as follows:

(b) If the return is timely, the clerk shall enclose the carrier envelope and the voter's early voting ballot application in a jacket envelope. The clerk shall also include in the jacket envelope:

(1) a copy of the voter's federal postcard application if the ballot is voted under Chapter 101; and

(2) the signature cover sheet, if the ballot is voted under Chapter 105.

SECTION 10. Subchapter B, Chapter 87, Election Code, is amended by adding Section 87.0223 to read as follows:

Sec. 87.0223. TIME OF DELIVERY: BALLOTS SENT OUT BY REGULAR MAIL AND E-MAIL. (a) If the early voting clerk has provided a voter a ballot to be voted by mail by both regular mail and e-mail under Subchapter C, Chapter 101, the clerk may not deliver a jacket envelope containing the early voting ballot voted by mail by the voter to the board until:

(1) both ballots are returned; or

(2) the deadline for returning marked ballots under Section 86.007 has passed.

(b) If both the ballot provided by regular mail and the ballot provided by e-mail are returned before the deadline, the early voting clerk shall deliver only the jacket envelope containing the ballot provided by e-mail to the board. The ballot provided by regular mail is considered to be a ballot not timely returned.

SECTION 11. Section 87.041, Election Code, is amended by adding Subsection (f) to read as follows:

(f) In making the determination under Subsection (b)(2) for a ballot cast under Chapter 101 or 105, the board shall compare the signature on the carrier envelope or signature cover sheet with the signature of the voter on the federal postcard application.

SECTION 12. Section 87.043, Election Code, is amended by amending Subsection (a) and adding Subsection (d) to read as follows:

(a) The early voting ballot board shall place the carrier

envelopes containing rejected ballots in an envelope and shall seal the envelope. More than one envelope may be used if necessary. The board shall keep a record of the number of rejected ballots in each envelope.

(d) A notation must be made on the carrier envelope of any ballot that was rejected after the carrier envelope was opened and include the reason the envelope was opened and the ballot was rejected.

SECTION 13. Section 87.0431, Election Code, is amended to read as follows:

Sec. 87.0431. NOTICE OF REJECTED BALLOT. Not later than the 10th day after election day, the presiding judge of the early voting ballot board shall deliver written notice of the reason for the rejection of a ballot to the voter at the residence address on the ballot application. If the ballot was transmitted to the voter by e-mail under Subchapter C, Chapter 101, the presiding judge shall also provide the notice to the e-mail address to which the ballot was sent.

SECTION 14. Subsection (a), Section 87.044, Election Code, is amended to read as follows:

(a) The early voting ballot board shall place each application for a ballot voted by mail in its corresponding jacket envelope. For a ballot voted under Chapter 101 or 105, the board shall also place the copy of the voter's federal postcard application or signature cover sheet in the same location as the carrier envelope. If the voter's ballot was accepted, the board shall also place the carrier envelope in the jacket envelope. However, if the jacket envelope is to be used in a subsequent election, the carrier envelope shall be retained elsewhere.

SECTION 15. Section 105.003, Election Code, is amended to read as follows:

Sec. 105.003. USE OF FEDERAL WRITE-IN ABSENTEE BALLOT FOR ELECTIONS FOR FEDERAL OFFICE. The secretary of state shall prescribe procedures to allow a voter who qualifies to vote by a federal write-in absentee ballot to vote through use of a federal write-in absentee ballot in:

(1) any general, special, primary, or runoff election for federal office; or

(2) an election for any office for which balloting materials may be sent under Section 101.104.

SECTION 16. Subsection (b), Section 142.010, Election Code, is amended to read as follows:

(b) Not later than the 68th [~~55th~~] day before general election day, the certifying authority shall deliver the certification to the authority responsible for having the official ballot prepared in each county in which the candidate's name is to appear on the ballot.

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

(c) For an election to be held on:

(1) the date of the general election for state and county officers, the day of the filing deadline is the 78th [~~70th~~] day before election day; and

(2) a uniform election date other than the date of the

general election for state and county officers, the day of the filing deadline is the 71st day before election day.

SECTION 18. Subsection (d), Section 144.005, Election Code, is amended to read as follows:

(d) For an election to be held on:

(1) the date of the general election for state and county officers, the day of the filing deadline is the 78th [70th] day before election day; and

(2) a uniform election date other than the date of the general election for state and county officers, the day of the filing deadline is the 71st day before election day.

SECTION 19. Subsection (b), Section 144.006, Election Code, is amended to read as follows:

(b) For an election to be held on:

(1) the date of the general election for state and county officers, the day of the filing deadline is the 78th [67th] day before election day; and

(2) a uniform election date other than the date of the

general election for state and county officers, the day of the filing deadline is the 71st day before election day.

SECTION 20. Subsection (e), Section 145.037, Election Code, is amended to read as follows:

(e) The certification must be delivered not later than 5 p.m. of the 71st [~~70th~~] day before election day.

SECTION 21. Subsection (b), Section 145.038, Election Code, is amended to read as follows:

(b) The state chair must deliver the certification of the replacement nominee not later than 5 p.m. of the 69th [~~67th~~] day before election day.

SECTION 22. Subsection (f), Section 145.092, Election Code, is amended to read as follows:

(f) A candidate in an election for which the filing deadline for an application for a place on the ballot is not later than 5 p.m. of the 78th [~~70th~~] day before election day may not withdraw from the election after 5 p.m. of the 71st [~~67th~~] day before election day.

S.B. No. 100

section (a), Section 145.094, Election Code,
is amended to read as follows:

a candidate shall be omitted from the ballot
if the ca.

dies before the second day before the date of the
deadline for filing the candidate's application for a place on the
ballot;

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

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

(4) withdraws or is declared ineligible before 5 p.m. of
the 71st [~~67th~~] day before election day, in an election subject to
Section 145.092(f).

SECTION 24. Subsection (a), Section 145.096, Election Code,
is amended to read as follows:

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

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

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

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

(4) is declared ineligible after 5 p.m. of the 71st [~~67th~~] day before election day, in an election subject to Section 145.092(f).

SECTION 25. Subsections (a) and (b), Section 146.025, Election Code, are amended to read as follows:

(a) A declaration of write-in candidacy must be filed not later than 5 p.m. of the 78th [~~70th~~] day before general election day, except as otherwise provided by this code. A declaration may

not be filed earlier than the 30th day before the date of the regular filing deadline.

(b) If a candidate whose name is to appear on the general election ballot dies or is declared ineligible after the third day before the date of the filing deadline prescribed by Subsection (a), a declaration of write-in candidacy for the office sought by the deceased or ineligible candidate may be filed not later than 5 p.m. of the 75th [~~67th~~] day before election day.

SECTION 26. Subsection (c), Section 146.029, Election Code, is amended to read as follows:

(c) Not later than the 68th [~~62nd~~] day before election day, the certifying authority shall deliver the certification to the authority responsible for having the official ballot prepared in each county in which the office sought by the candidate is to be voted on.

SECTION 27. Subsection (b), Section 146.054, Election Code, is amended to read as follows:

(b) For an election to be held on:

S.B. No. 100

(1) the date of the general election for state and county officers, the day of the filing deadline is the 74th [~~67th~~] day before election day; and

(2) a uniform election date other than the date of the general election for state and county officers, the day of the filing deadline is the 71st day before election day.

SECTION 28. Subsection (b), Section 161.008, Election Code, is amended to read as follows:

(b) Not later than the 68th [~~62nd~~] day before general election day, the secretary of state shall deliver the certification to the authority responsible for having the official general election ballot prepared in each county in which the candidate's name is to appear on the ballot.

SECTION 29. Subsection (a), Section 172.023, Election Code, is amended to read as follows:

(a) An application for a place on the general primary election ballot must be filed not later than 6 p.m. on the second Monday in December of an odd-numbered year [~~January 2 in the~~]

~~primary election year]~~ unless the filing deadline is extended under Subchapter C.

SECTION 30. Subsection (d), Section 171.0231, Election Code, is amended to read as follows:

(d) A declaration of write-in candidacy must be filed not later than 6 [5] p.m. of the fifth [~~62nd~~] day after the date of the filing deadline for the [~~before~~] general primary election [~~day. However, if a candidate whose name is to appear on the ballot for the office of county chair or precinct chair dies or is declared ineligible after the third day before the date of the regular filing deadline prescribed by this subsection, a declaration of write-in candidacy for the office sought by the deceased or ineligible candidate may be filed not later than 5 p.m. of the 59th day before election day~~].

SECTION 31. Subsection (b), Section 172.028, Election Code, is amended to read as follows:

(b) Not later than the 81st [~~57th~~] day before general primary election day, the state chair shall deliver the certification to

the county chair in each county in which the candidate's name is to appear on the ballot.

SECTION 32. Subsection (a), Section 172.052, Election Code, is amended to read as follows:

(a) A candidate for nomination may not withdraw from the general primary election after the 79th [~~62nd~~] day before general primary election day.

SECTION 33. Subsections (a) and (b), Section 172.054, Election Code, are amended to read as follows:

(a) The deadline for filing an application for a place on the general primary election ballot is extended as provided by this section if a candidate who has made an application that complies with the applicable requirements:

(1) dies on or after the fifth day before the date of the regular filing deadline and on or before the 79th [~~62nd~~] day before general primary election day;

(2) holds the office for which the application was made and withdraws or is declared ineligible on or after the date of the

regular filing deadline and on or before the 79th [~~62nd~~] day before general primary election day; or

(3) withdraws or is declared ineligible during the period prescribed by Subdivision (2), and at the time of the withdrawal or declaration of ineligibility no other candidate has made an application that complies with the applicable requirements for the office sought by the withdrawn or ineligible candidate.

(b) An application for an office sought by a withdrawn, deceased, or ineligible candidate must be filed not later than 6 p.m. of the 81st [~~60th~~] day before general primary election day. An application filed by mail with the state chair is not timely if received later than 5 p.m. of the 81st [~~60th~~] day before general primary election day.

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

Sec. 172.057. WITHDRAWN, DECEASED, OR INELIGIBLE CANDIDATE'S NAME OMITTED FROM GENERAL PRIMARY BALLOT. A candidate's name shall be omitted from the general primary election ballot if the

candidate withdraws, dies, or is declared ineligible on or before the 79th [~~62nd~~] day before general primary election day.

SECTION 35. Subsection (a), Section 172.058, Election Code, is amended to read as follows:

(a) If a candidate who has made an application for a place on the general primary election ballot that complies with the applicable requirements dies or is declared ineligible after the 79th [~~62nd~~] day before general primary election day, the candidate's name shall be placed on the ballot and the votes cast for the candidate shall be counted and entered on the official election returns in the same manner as for the other candidates.

SECTION 36. Subsection (a), Section 172.059, Election Code, is amended to read as follows:

(a) A candidate for nomination may not withdraw from the runoff primary election after 5 p.m. of the 8th [~~10th~~] day after general primary election day.

SECTION 37. Subsection (c), Section 172.082, Election Code, is amended to read as follows:

S.B. No. 100

(c) The drawing shall be conducted at the county seat not later than the third Tuesday in December of an odd-numbered year [~~53rd day before general primary election day~~].

SECTION 38. Subsection (b), Section 192.033, Election Code, is amended to read as follows:

(b) 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 68th [~~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 39. Subsection (b), Section 201.051, Election Code, is amended to read as follows:

(b) For a vacancy to be filled by a special election to be held on the date of the general election for state and county officers, the election shall be ordered not later than the 78th [~~70th~~] day before election day.

SECTION 40. Subsection (f), Section 201.054, Election Code,

is amended to read as follows:

(f) For a special election to be held on the date of the general election for state and county officers, the day of the filing deadline is the 75th [~~67th~~] day before election day.

SECTION 41. Section 501.109, Election Code, is amended to read as follows:

Sec. 501.109. ELECTION IN [CERTAIN] MUNICIPALITIES.

(a) This section applies only to an election to permit or prohibit the legal sale of alcoholic beverages of one or more of the various types and alcoholic contents in a municipality [~~that is located in more than one county~~].

(b) An election to which this section applies shall be conducted by the municipality instead of a county [~~the counties~~]. For the purposes of an election conducted under this section, a reference in this chapter to:

(1) the county is considered to refer to the municipality;

(2) the commissioners court is considered to refer to

the governing body of the municipality;

(3) the county clerk or voter registrar is considered to refer to the secretary of the municipality or, if the municipality does not have a secretary, to the person performing the functions of a secretary of the municipality; and

(4) the county judge is considered to refer to the mayor of the municipality or, if the municipality does not have a mayor, to the presiding officer of the governing body of the municipality.

(c) The municipality shall pay the expense of the election.

(d) An action to contest the election under Section 501.155 may be brought in the district court of any county in which the municipality is located.

SECTION 42. Subsections (a) and (c), Section 11.055, Education Code, are amended to read as follows:

(a) Except as provided by Subsection (c), an application of a candidate for a place on the ballot must be filed not later than 5 p.m. of the 71st [~~62nd~~] day before the date of the election. An application may not be filed earlier than the 30th day before the

date of the filing deadline.

(c) For an election to be held on the date of the general election for state and county officers, the day of the filing deadline is the 78th [~~70th~~] day before election day.

SECTION 43. Subsection (b), Section 11.056, Education Code, is amended to read as follows:

(b) A A [~~Except as provided by Subsection (e), a~~] declaration of write-in candidacy must be filed not later than the deadline prescribed by Section 146.054, Election Code, for a write-in candidate in a city election [~~5 p.m. of the fifth day after the date an application for a place on the ballot is required to be filed~~].

SECTION 44. Subsection (e), Section 11.059, Education Code, is amended to read as follows:

(e) Not later than December 31, 2011 [~~2007~~], the board of trustees may adopt a resolution changing the length of the terms of its trustees. The resolution must provide for staggered terms [~~a term~~] of either three or four years and specify the manner in which

S.B. No. 100

the transition from the length of the former term to the modified term is made. The transition must begin with the first regular election for trustees that occurs after January 1, 2012 [~~2008~~], and a trustee who serves on that date shall serve the remainder of that term. This subsection expires January 1, 2017 [~~2013~~].

SECTION 45. Subsection (b), Section 130.0825, Education Code, is amended to read as follows:

(b) A [~~Except as provided by Subsection (e), a~~] declaration of write-in candidacy must be filed not later than the deadline prescribed by Section 146.054, Election Code, for a write-in candidate in a city election [~~5 p.m. of the fifth day after the date an application for a place on the ballot is required to be filed~~].

SECTION 46. Subsection (d), Section 285.131, Health and Safety Code, is amended to read as follows:

(d) A [~~Except as provided by Subsection (g), a~~] declaration of write-in candidacy must be filed not later than the deadline prescribed by Section 146.054, Election Code, for a write-in

candidate in a city election [5 p.m. of the fifth day after the date an application for a place on the ballot is required to be filed].

SECTION 47. Subchapter A, Chapter 21, Local Government Code, is amended by adding Section 21.004 to read as follows:

Sec. 21.004. CHANGE OF LENGTH OR STAGGERING OF TERMS IN GENERAL-LAW MUNICIPALITY. (a) This section applies only to a general-law municipality whose governing body is composed of members that serve:

- (1) a term of one or three years; or
- (2) staggered terms.

(b) Not later than December 31, 2012, the governing body of the general-law municipality may adopt a resolution:

- (1) changing the length of the terms of its members to two years; or
- (2) providing for the election of all members of the governing body at the same election.

(c) The resolution must specify the manner in which the

transition in the length of terms is made. The transition must begin with the first regular election for members of the governing body that occurs after January 1, 2013, and a member who serves on that date shall serve the remainder of that term.

(d) This section expires January 1, 2016.

SECTION 48. Subsection (d), Section 63.0945, Water Code, is amended to read as follows:

(d) A [~~Except as provided by Subsection (f), a~~] declaration of write-in candidacy must be filed not later than the deadline prescribed by Section 146.054, Election Code, for a write-in candidate in a city election [~~5 p.m. of the fifth day after the date an application for a place on the ballot is required to be filed~~].

SECTION 49. To the extent of any conflict, this Act prevails over another Act of the 82nd Legislature, Regular Session, 2011, regardless of the relative dates of enactment.

SECTION 50. The secretary of state shall adopt rules as necessary to implement this Act, including the adjustment or

modification of any affected date, deadline, or procedure.

SECTION 51. The following are repealed:

- (1) Section 41.0053, Election Code;
- (2) Subsection (e), Section 11.056, and Subsection (e), Section 130.0825, Education Code;
- (3) Subsection (g), Section 285.131, Health and Safety Code; and
- (4) Subsection (f), Section 63.0945, Water Code.

SECTION 52. (a) This section applies only to a political subdivision that elects the members of its governing body to a term that consists of an odd number of years.

(b) Not later than December 31, 2012, the governing body of the political subdivision may adopt a resolution changing the length of the terms of its members to an even number of years. The resolution must specify the manner in which the transition from the length of the former term to the modified term is made. The transition must begin with the first regular election for members of the governing body that occurs after January 1, 2013, and a

S.B. No. 100

member who serves on that date shall serve the remainder of that term.

(c) This section expires January 1, 2020.

SECTION 53. The changes in law made by this Act do not apply to an election held on November 8, 2011.

SECTION 54. This Act takes effect September 1, 2011.

S.B. No. 100

President of the Senate

Speaker of the House

I hereby certify that S.B. No. 100 passed the Senate on April 14, 2011, by the following vote: Yeas 29, Nays 1; May 27, 2011, Senate refused to concur in House amendments and requested appointment of Conference Committee; May 27, 2011, House granted request of the Senate; May 29, 2011, Senate adopted Conference Committee Report by the following vote: Yeas 31, Nays 0.

Secretary of the Senate

I hereby certify that S.B. No. 100 passed the House, with amendments, on May 25, 2011, by the following vote: Yeas 143, Nays 1, two present not voting; May 27, 2011, House granted request of the Senate for appointment of Conference Committee;

S.B. No. 100
May 29, 2011, House adopted Conference Committee Report by the
following vote: Yeas 147, Nays 0, one present not voting.

Chief Clerk of the House

Approved:

Date

Governor