
**HOUSE COMMITTEE ON ELECTIONS
TEXAS HOUSE OF REPRESENTATIVES
INTERIM REPORT 2000**

**A REPORT TO THE
HOUSE OF REPRESENTATIVES
77TH TEXAS LEGISLATURE**

**DEBRA DANBURG
CHAIR**

**COMMITTEE CLERK
PAUL S. HARRIS**



Committee On
Elections

January 26, 2001

Debra Danburg
Chair

P.O. Box 2910
Austin, Texas 78768-2910

The Honorable James E. "Pete" Laney
Speaker, Texas House of Representatives
Members of the Texas House of Representatives
Texas State Capitol, Rm. 2W.13
Austin, Texas 78701

Dear Mr. Speaker and Fellow Members:

The Committee on Elections of the Seventy-Sixth Legislature hereby submits its interim report including recommendations for consideration by the Seventy-Seventh Legislature.

Respectfully submitted,

Debra Danburg, Chair

Jesse Jones, Vice-Chair

Sherri Greenberg

Kip Averitt

Terri Hodge

Mary Denny

Jerry Madden

Jesse Jones
Vice-Chairman

Members: Kip Averitt, Mary Denny, Pete Gallego, Sherri Greenberg, Terri Hodge, Jerry Madden, D.R. (Tom) Uher

Pete Gallego

D.R. (Tom) Uher

Jesse Jones
Vice-Chairman

Members: Kip Averitt, Mary Denny, Pete Gallego, Sherri Greenberg, Terri Hodge, Jerry Madden, D.R. (Tom) Uher

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HOUSE COMMITTEE ON ELECTIONS

INTRODUCTION

At the beginning of the 76th Legislature, the Honorable Pete Laney, speaker of the Texas House of Representatives, appointed nine members to the House Committee on Elections. In addition to Debra Danburg, chair, the committee membership included: Jesse Jones, Vice-Chair; Kip Averitt, Mary Denny, Pete Gallego, Sherri Greenberg, Terri Hodge, Jerry Madden and D.R.(Tom) Uher.

During the interim after the 76th Regular Session, the Committee was assigned seven charges by the Speaker: Review and assess all issues related to the financing of campaigns, including so-called “soft-money” and other funds whose source is unclear, the influence of out-of-state political action committees, and so-called “late train” contributions; examine the benefits of reducing and changing the dates of uniform elections; examine the procedures for early voting by mail, including simplification of the application, deadlines, distribution of lists, and similar matters; review Title 15, Election Code, to consider changes to make it easier to understand and follow; consider methods to make voter registration rolls more accurate and easier to use; assess the need for better accommodation of voters with visual impairments; and conduct oversight of the agency under the committee’s jurisdiction.

The Committee wishes to express appreciation to the Secretary of State’s Office, the Ethics Commission, the Texas Bond Review Board, the Texas Association of School Boards, the Texas Association of School Administrators, the Association of Water Board Directors of Texas, the League of Women Voters, Public Citizen, Common Cause, Campaigns for People, representatives from the various political parties and the citizens who testified at the hearings for their time and effort.

HOUSE COMMITTEE ON ELECTIONS

INTERIM STUDY CHARGES AND SUBCOMMITTEE ASSIGNMENTS

Five subcommittees were appointed to study the interim charges:

- Charge #1: Review and assess all issues related to the financing of campaigns, including so-called “soft-money” and other funds whose source is unclear, the influence of out-of-state political action committees, and so-called “late train” contributions. To the Subcommittee on Campaign Finance the Chair of the Committee appointed the following members: Pete Gallego, Chair; Kip Averitt, Mary Denny, Sherri Greenberg, Jesse Jones, Jerry Madden and Tom Uher.
- Charge #2: Examine the benefits of reducing and changing the dates of uniform elections. To the Subcommittee on Uniform Election Dates the Chair of the Committee appointed the following members: Jerry Madden, Chair; Mary Denny, Sheri Greenberg and Jesse Jones.
- Charge #3: Examine the procedures for early voting by mail, including simplification of the application, deadlines, distribution of lists, and similar matters. Consider methods to make voter registration rolls more accurate and easier to use. The Chair of the Committee appointed the following members to serve on the Subcommittee on Early Voting by Mail and Voter Registration: Mary Denny, Chair; Kip Averitt, Terri Hodge and Jesse Jones.
- Charge #4: Review Title 15, Election Code, to consider changes to make it easier to understand and follow. To the Subcommittee to Review Title 15 the Chair of the Committee appointed the following members: Debra Danburg, Chair; Kip Averitt, Mary Denny, Terri Hodge and Jesse Jones.
- Charge #5: Assess the need for better accommodation of voters with visual impairments. To the Subcommittee on Voters with Visual Impairments the Chair of the Committee appointed the following members: Terri Hodge, Chair; Jesse Jones and Jerry Madden.

SUBCOMMITTEE ON UNIFORM ELECTION DATES

SUBCOMMITTEE MEMBERS

Jerry Madden, Chair;
Mary Denny
Sheri Greenberg
Jesse Jones.

PUBLIC HEARINGS

The House Subcommittee on Uniform Election Dates held two public hearings. The interim charge was to examine the benefits of reducing and changing the dates of uniform elections.

The following witnesses testified:

May 24, 2000

Maxine Barkan, (League of Women Voters)
Andrea Gibbud, (Tax Assessor-Collector Association of Texas)
Elizabeth Hanshaw, (Secretary of State - Elections Division)
Tom Harrison, (Texas Ethics Commission)
Linnel Hinojosa, (Comal County Clerk's Office)
Ann McGeehan, (Secretary of State - Elections Division)
Robert Mendoza, (Texas Association of Elections Administrators)
Steve Raborn, (Self and Texas Association of Elections Administrators)
Robert Seward, (Texas Association of School Boards)
Gerald "Buddy" Winn, (Self and Tax Assessor-Collector Association of Texas)
Suzy Woodford, (Self and Common Cause)

September 26, 2000

Catharine "Cathy" Douglass, (Texas Association of School Boards)
Gordon Landwermeyer, (Association of Water Board Directors)
Patrick Krishock, (Texas Bond Review Board)
Ann McGeehan, (Secretary of State)

Background

The Texas Election Code designates four uniform election dates:

- the third Saturday in January,
- the first Saturday in May,
- the second Saturday in August, and
- the first Tuesday following the first Monday in November.

In addition, the Election Code provides 10 exceptions to the four uniform dates. Elections may be held on nonuniform dates for:

- runoff elections,
- court ordered elections,
- elections to resolve a tie vote,
- elections held by political subdivisions using the convention method of elections,
- local option elections under the Alcoholic Beverage Code,
- bond or tax levy elections for school or college districts,
- emergency elections,
- elections to fill vacancies in the Legislature,
- recall elections, and
- other elections exempted by statute.

In even-numbered years, the general primary election date is set as the second Tuesday in March and the runoff primary election is set as the second Tuesday in April.

Voter turnouts in Texas have been decreasing over the past decade. In testimony before the House Committee on Elections in February 1999, Secretary of State Elton Bomer lamented that more people live in Tarrant County, Texas alone than voted statewide in the March 1998 primary and the April 1998 primary runoff elections, marking one of the lowest vote turnouts in Texas history. While bloated voter registration rolls which are difficult to purge accurately may be part of the reason for declining voter turnout percentages, Mr. Bomer noted that the high number of elections held in Texas has led to what he calls “turnout burnout.”

Two years later, low voter turnout trends continue. According to Secretary of State (SOS) election figures, neither of the two major parties reached 10% of a turnout to registered voters in the March 2000 primaries¹. Results of the 2000 primary runoff elections were worse, netting a meager 4% of registered voters.² Other examples of low voter participation include a January 1999 bond election in Denton County where 1.61% of registered voters approved \$85.3 million in general obligation bonds.³ In February 1999, 3.92% of registered voters in Collin County approved four bond propositions totaling more than \$120 million.⁴ Voters in McLennan County approved a Junior College bond proposition in June 1999 with only 3.97% participating.⁵

Proponents of uniform election dates advocate repeal of exceptions allowing local option elections under the Alcoholic Beverage Code, elections to levy taxes or issue bonds, elections held by political subdivisions using the convention method of election and recall elections. Repeal of those exceptions will leave, for practical purposes, four uniform election dates. A reduction in elections should relieve “turnout burnout” and increase participation in local elections where now only handfuls of voters make decisions about millions of tax dollars. A cutback in the number of elections also will save taxpayers the costs of conducting multiple elections. In addition to eliminating exceptions, proponents want to adjust existing uniform dates to make them “user friendly.”

None of the taxing authorities using non-uniform dates - ISDs, cities, counties, water districts or other special districts - have expressed support for mandating bond elections be held on uniform dates. However, ISDs, school administrators and board members of water districts have been the most vocal in opposition.

While the committee’s research and debate covered all taxing authorities, ISDs became the primary focus of study due to the large number of school bond elections held on non-uniform dates, the intricacies of public school finance, ISDs’ reliance on local taxes and sensitivity to the vagaries of bond markets, school districts’ strict compliance requirements with the Voting Rights Act and importance of their mission - the education of children.

A problem in dealing with uniform election date issues is the multitude of units of local government created by the Legislature to address the needs of its citizens. According to the latest Census of Government Report (1997), Texas has 4,700 units of local government including: 2,182 special districts; 1,177 municipal governments, 1,087 independent school districts and 254 counties. Except for a few special districts where board members are appointed, all of these units of local government chose officials, levy taxes and issue bonds by the electoral process. These thousands of local government entities beget about 26,320 elected officials and are required legally to hold what amounts to hundreds of elections annually. It is this deluge of elections that becomes problematic.

To opponents, mandating uniform election dates is analogous to losing local control over the public interests with which they have been entrusted. In their view, local officials should be able to make decisions that fit local conditions. Local government entities use nonuniform election dates to hold bond elections and levy taxes which the Election Code allows if the governing body finds it in the public interest. Many local governments can and do use uniform dates when appropriate. Opponents argue that being forced to hold elections on a uniform date oftentimes is not in the public interest because to do so may cast school bond propositions into a mix with numerous elections - local, state and federal. School districts cannot use tax funds to advocate a position in an election. Further, the debate on the need for/ or against bonds may be lost in the fervor of multiple campaigns, particularly in urban areas where media outlets will be shared. Also, bond propositions offered by different taxing authorities may confuse voters. For example, an unpopular bond proposal offered by another taxing authority may lead to defeat of school bond propositions due to voter confusion. Campaign issues are another problem. For example, ISD issues may bleed over to other campaigns to become part of the debate and affect the outcome of city council, county commissioner, state legislative or congressional races even though

the other campaigns have little or nothing to do with school bond issues and vice versa. To opponents of a mandate to use only uniform dates, the importance of a school bond election should be a focused issue for voters, free of distractions and confusion, and local officials can best make decisions about when conditions are favorable.

Opponents also claim loss of local control of the timing of school bond elections will affect planning, management and costs of capital expenditures during a time when many school districts are experiencing dramatic increases in student enrollment and a resulting shortage of facilities. Projected construction costs are valid for only a period of time and are rising rapidly in many areas across the state. If a taxing authority has to wait for a uniform election date to get voter approval, costly delays could result. In the event that all Texas bond elections are held on the same dates, a glut may result in the bond market. Texas taxing authorities would not only have to compete with one another in the market on the same cyclical schedule but also with national entities and those of other states. Increased competition for a limited number of buyers will drive up interest rates and may result in budget shortfall requiring facility redesign, cancellation or cutbacks, all of which are detrimental to taxpayers and school children and disruptive to planning processes.

A helpful program for ISDs also may be disrupted by mandated uniform dates, according to school board members. The Instructional Facilities Allotment (IFA) program, created by the Legislature in 1997, provides state funds for ISDs annual debt service payments on qualifying bond proceeds used for construction or renovation of instructional facilities. The Legislature appropriated \$200 million for the 1997-1999 biennium and \$150 million for the 1999-2000 biennium to the program. To qualify for assistance ISDs must have held a successful bond election prior to making application and must issue the bonds within six months of the application to TEA. The 1999 deadlines were June 15 and December 15. The IFA program has become a strong influence on when bond elections are held and when bonds are issued. As an example, TASB presented data showing that of the 33 successful bond elections in December 1999, 28 of the districts applied for IFA funds.⁶ All of the districts that made application for IFA funds held elections prior to the December 15 deadline.⁷ Also, 35 ISD bond elections were held in December 1999 up from 12 in 1998.⁸

Rules for the IFA program are promulgated by TEA and can change from year to year. If election dates are mandated school board officials fear that any rule changes to IFA coupled with other changes to the school finance system which the Legislature makes every session will impede long range planning and management processes.

Mandating election dates will require consolidation of elections and may result in increased cost to some taxing authorities. Taxing authorities may end up paying more for such elections than holding their own as county clerks and election administrators may attempt to recoup their appropriations through inflated costs passed on to other government entities.

Findings

In 1997, the Secretary of State (SOS) was required statutorily to begin keeping records on the number of and cost of elections held on nonuniform dates. This data on elections held on non-uniform dates 1998 and 1999 by cities, counties, independent school districts (ISDs), hospital districts, water and other special districts were used in this report. Also, for comparison, election data on uniform election dates for independent school districts 1998 - 1999 were used as well as information compiled by the TX Bond Revue Board. Information provided by the Texas Association of School Boards (TASB) was also used (see Appendix No. 5 for TASB research information).

Cost of Elections on Nonuniform Dates, 1998 - 1999

Three hundred twenty eight elections were held on nonuniform dates during the time period: 218 by ISDs, 85 by cities, 11 by counties, 11 by water districts, two by other special districts, one by a hospital district.⁹

Taxpayers statewide spent \$2,744,965 holding these elections: ISDs accounted for \$1,749,505 of the total; cities \$ 731,673; counties \$173,489; water districts \$ 22,403; other special districts \$66,938; one hospital district \$ 956.¹⁰

Mandating four election dates will reduce the number of elections and reduce costs to taxpayers.

ISD Bond Election Results: Uniform/Nonuniform Dates, 1998 - 1999

Results of ISD bond elections, both uniform and nonuniform, were compared to establish if a correlation exists between dates used and failure or success of bond propositions. During the time period, 48 elections covering 55 propositions were held on uniform dates: 47 propositions carried (85%), eight propositions failed (15%). On non-uniform dates, 218 elections covering 251 propositions were held: 215 propositions carried (86%), 36 propositions failed (14%).¹¹

ISDs preference for using non-uniform dates is unmistakable: 218 non-uniform dates were used to 48 uniform dates.¹²

Based on available data, the differences between success and failure of bond propositions are negligible using election dates as criteria.

Instructional Facilities Allotment Program

Careful, advanced planning by school and other districts can offset changes made to the elections process as well as agency regulation.

Alternative Uniform Election Dates

In testimony before the Committee, TASB suggested that if changes were to be made to uniform dates moving the January and the August dates to a later date would be preferable.

Committee staff research on ISD election dates 1998 - 1999, both uniform and non uniform, show the months of May, December, September, October and November as the most frequently used. March and April are problematic in even numbered years due to primary elections. July is a problem due to summer vacation. January is seldom used probably due to the holiday season. February and August are months not often used.¹³

Uniform dates can be rearranged to better suit the needs of local governments.

RECOMMENDATIONS

1. Repeal exceptions to uniform election dates allowing local option elections under the Alcoholic Beverage Code, elections to levy taxes or issue bonds, elections held by political subdivisions using the convention method of election and recall elections.
2. Continue use of May or November dates for election of school board members.
3. Move the current August date to the 2nd Saturday in September.
4. Move the current January date to the 1st Saturday in February.
5. Insure statutorily that cost of consolidated elections are reasonable to participating taxing authorities that are not in charge of holding the election.

SUBCOMMITTEE ON CAMPAIGN FINANCE

SUBCOMMITTEE MEMBERS

Pete Gallego, Chair;

Kip Averitt

Mary Denny

Sherri Greenberg

Jesse Jones

Jerry Madden

Tom Uher.

PUBLIC HEARINGS

The Subcommittee on Campaign Finance held one public hearing. The interim charge was to review and assess all issues related to the financing of campaigns, including so-called “soft money” and other funds whose source is unclear, the influence of out-of-state political action committees, and so-called “late train” contributions.

The following witnesses testified:

August 28, 2000

Ken Anderson, (Self and Republican Party)

Roger Baker, (Self)

Bill Clayton, (Self)

Keith Crawford, (Self)

Richard Daly, (Self and Texas Catholic Conference)

Denise Davis, (Texas Judicial Council)

Allison Dieter, (Self and Grey Panthers)

Charles Gandy, (Self)

Humberto Garcia, (Campaigns for People)

James Gaston, (Self and Democratic Party)

Linda Greene, (Self)

Stephen D. Harrison, (Associated General Contractors, Ft. Worth Chapter)

Mickey Jo Lawrence, (Self)

Fred Lewis, (Campaigns for People)

Craig L. McDonald, (Texans for Public Justice)

Travis Metcalfe, (Self)

Gertrude Miller, (Self and American Jewish Congress)

Bee Moorhead, (Texas Impact)

Jim Murray, (Self)

Jerry Patterson, (Campaigns for People)

J.D. Porter, (Self)

Ray Ramirez, (Self)
Douglas Reber, PhD, (Self and Travis County Green Party)
Brian Rogers, (Self)
Virginia Smith, (Self)
Weston Ware, (Texas Baptist Convention)

FINDINGS

Texas election law related to the financing of campaigns has loop holes which deny the public the capability to determine the source of campaign funds.

RECOMMENDATIONS

1. Require contributors' occupation on reports with filer making best effort to comply with the requirement if information not provided by contributor.
2. Require the name of employer and occupation of contributors of \$ 500 or more.
3. Require out-of-state- PACS to report as in-state PACs.
4. Require 527s (issue advocacy groups) to disclose contributors and expenditures.
5. Require cash on hand balances for each report.
6. Define promises and offers of contributions and require inclusion of same in contributor reports.
7. Define coordinated contributions and include in reports.
8. Increase the penalty for intentional failure to file to Class A misdemeanor.
9. Allow only one principal campaign committee for candidates for statewide, legislative, State Bd. of Education and appellate courts.

10. Allow only one principal campaign committee for all candidates for public office including local offices.

11. Require description of in kind contributions in reports.

12. Require itemization of contributions and expenditures more than \$ 100 rather than more than \$ 50 (current law).

13. Require listing of loans outstanding more than \$ 100 at the end of reporting period.

14. Expand loan reimbursement restriction in current law to include not just personal loans from the candidate but also to loans by financial institutions or others guaranteed or backed by the candidate or their family.

15. Expand late reporting (between 9th and 2nd day before the election) requirements to include opposed statewide candidates who receive contributions from a person for more than \$1,000, general purpose committees that receive contributions for more than \$5,000 from a person, and other committees required to file with the Ethics Commission that receive contributions from a person for more than \$5,000.

16. Require late reporting (between 9th and 2nd day before election) within 24 hours of direct expenditures for more than \$5,000. Reports must include the amount and purpose of the expenditure and the occupation of the recipient. Expenditures made by political parties for more than \$5,000 within this time frame are not included.

17. Require reporting of the contributors, or their business entity in which they have a substantial interest (10% or more), who have executory contracts with the agency of the official receiving the contribution.

18. Require PACs to report administrative expenses if they exceed \$ 100.

19. Require political parties to compile and report aggregate totals of contributions and expenditures made on behalf of candidates and officeholders.

SUBCOMMITTEE ON EARLY VOTING BY MAIL/VOTER REGISTRATION

SUBCOMMITTEE MEMBERS

Mary Denny, Chair

Kip Averitt

Terri Hodge

Jesse Jones

PUBLIC HEARINGS

The Subcommittee held one public hearing. The interim charge was to examine the procedures for early voting by mail, including simplification of the application, deadlines, distribution of lists, and similar matters. Consider methods to make voter registration rolls more accurate and easier to use.

The following witnesses testified:

May 24, 2000

Melinda Nickless, (Secretary of State - Elections Division)

Mark McClelland, (Self and Tax Assessor-Collectors Association of Texas)

FINDINGS

The subcommittee determined no changes in current election law regarding early voting by mail and voter registration are necessary beyond those made by the 75th and 76th Legislature.

SUBCOMMITTEE ON TITLE 15, ELECTION CODE

SUBCOMMITTEE MEMBERS

Debra Danburg, Chair
Kip Averitt
Mary Denny
Terri Hodge
Jesse Jones

PUBLIC HEARINGS

The Subcommittee held no public hearing. The interim charge was to review Title 15, Election Code, to consider changes to make it easier to understand and follow.

FINDINGS

The subcommittee determined that Title 15 could not be made easier to understand and follow without a rewrite of the Election Code.

RECOMMENDATIONS

Request a rewrite of the Election Code during the interim following the 77th Legislature.

SUBCOMMITTEE ON VOTERS WITH VISUAL IMPAIRMENT

SUBCOMMITTEE MEMBERS

Terri Hodge, Chair
Jesse Jones
Jerry Madden

PUBLIC HEARINGS

The Subcommittee held no public hearings. The interim charge was to assess the need for better accommodation of voters with visual impairments

FINDINGS

Texas Secretary of State Elton Bomer created the Elections Accessibility Task Force to provide guidance on accessibility issues arising from the enactment of HB 1053 (76th RS) requiring voting systems acquired after September 1, 1999 be accessible and provide a practical effective means for voters with physical impairments to cast a secret ballot. On August 30, 2000, the results of this task force were adopted into the Texas Administrative Code. In view of Mr. Bomer's efforts in this regard the subcommittee deferred to the work of the task force and endorsed its findings.¹⁴

ENDNOTES

1. TX Secretary of State, Primary Election Results.
2. IBID.
3. Election results can be found online @ www.elections.co.denton.tx.us.
4. Election results can be found online @ www.co.collin.tx.us.
5. Election results can be found online @ www.co.mclennan.tx.us/elections.
6. See Appendix No. 4.
7. IBID.
8. See Appendix No. 2.
9. See Appendix No. 1.
10. IBID.
11. See Appendix No. 2.
12. IBID.
13. See Appendix No. 3.
14. See Appendix No. 4.

For TASB research information see Appendix No. 5

APPENDIX NO. 1

APPENDIX NO. 2

APPENDIX NO. 3

APPENDIX NO. 4

APPENDIX NO. 5