

By: Raney, Cook, Parker, Ashby, Fallon,
et al.

H.B. No. 543

Substitute the following for H.B. No. 543:

By: Fallon

C.S.H.B. No. 543

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the required vote by a presidential elector.

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

4 SECTION 1. Section 192.002(a), Election Code, is amended to
5 read as follows:

6 (a) To be eligible to serve as a presidential elector, a
7 person must:

8 (1) be a qualified voter of this state; ~~and~~

9 (2) not hold the office of United States senator,
10 United States representative, or any other federal office of profit
11 or trust; and

12 (3) meet all other eligibility requirements provided
13 by this subchapter, and if representing a political party, by party
14 rules.

15 SECTION 2. Section 192.003, Election Code, is amended to
16 read as follows:

17 Sec. 192.003. METHOD OF BECOMING ELECTOR AND ALTERNATE
18 ELECTOR NOMINEE ~~[CANDIDATE]~~. (a) For each presidential elector
19 position in this state, the state chair of a political party
20 contesting the position in accordance with this section and party
21 rules, or an independent or write-in candidate for president, shall
22 submit to the secretary of state the names of two qualified
23 individuals. One of the individuals must be designated "elector
24 nominee" and the other "alternate elector nominee."

1 (b) Each political party that holds a national presidential
2 nominating convention shall adopt rules providing for the selection
3 of elector nominees and alternate elector nominees. The rules
4 shall provide that a presidential nominee of that party, not later
5 than the close of the national presidential nominating convention,
6 shall provide a list of persons eligible for nomination as
7 alternate elector nominee to the state chair of a political party.
8 The state chair shall forward the names of these individuals to the
9 secretary of state as the party's nominees for alternate elector
10 nominee. If the presidential nominee does not timely provide the
11 list required by this section, the party rules shall provide an
12 alternate method of selection of alternate elector nominees, and
13 any vacancy shall be filled as prescribed by Section 192.004. [To
14 ~~become a presidential elector candidate, a person must be nominated~~
15 ~~as a political party's elector candidate in accordance with party~~
16 ~~rules or named as an elector candidate by an independent or write-in~~
17 ~~candidate for president.]~~

18 SECTION 3. Subchapter A, Chapter 192, Election Code, is
19 amended by adding Sections 192.0031 and 192.0032 to read as
20 follows:

21 Sec. 192.0031. PLEDGE. (a) If required by political party
22 rule, each elector nominee and alternate elector nominee of the
23 political party shall execute the following pledge before a notary:
24 "If selected for the position of elector, I agree to serve and to
25 mark my ballots for President and Vice President for the nominees
26 for those offices of the party that nominated me."

27 (b) Each elector nominee and alternate elector nominee of an

1 independent or write-in presidential candidate shall execute the
2 following pledge before a notary: "If selected for the position of
3 elector as a nominee of an independent or write-in presidential
4 candidate, I agree to serve and to mark my ballots for that
5 candidate and for that candidate's vice-presidential running
6 mate."

7 (c) The executed pledges, if required, must accompany the
8 submission of the corresponding names to the secretary of state.

9 Sec. 192.0032. CERTIFICATION OF ELECTORS. In submitting
10 this state's certificate of ascertainment as required by 3 U.S.C.
11 Section 6, the secretary of state shall certify this state's
12 electors and state in the certificate that:

13 (1) the electors will serve as electors unless a
14 vacancy occurs in the office of elector before the end of the
15 meeting at which elector votes are cast, in which case a substitute
16 elector will fill the vacancy; and

17 (2) if a substitute elector is appointed to fill a
18 vacancy, the secretary of state will submit an amended certificate
19 of ascertainment stating the names on the final list of this state's
20 electors.

21 SECTION 4. Section 192.004, Election Code, is amended to
22 read as follows:

23 Sec. 192.004. ELECTOR NOMINEE AND ALTERNATE ELECTOR NOMINEE
24 [CANDIDATE] VACANCY. (a) An elector nominee or alternate elector
25 nominee [candidate] may withdraw from the presidential election
26 before presidential election day, or if elected, may resign on or
27 after the presidential election day, by delivering written notice

1 of the withdrawal or resignation to:

2 (1) the secretary of state; and

3 (2) the state chair of the party that nominated the
4 elector nominee or alternate elector nominee [~~candidate~~] or to the
5 independent or write-in candidate for president who named the
6 elector nominee or alternate elector nominee [~~candidate~~].

7 (b) If an elector nominee or alternate elector nominee
8 [~~candidate~~] withdraws, dies, or is declared ineligible before
9 presidential election day, a replacement elector nominee or
10 alternate elector nominee [~~candidate~~] may be named by the party
11 that nominated the elector nominee or alternate elector nominee
12 [~~candidate~~] or by the independent or write-in candidate for
13 president who named the elector nominee or alternate elector
14 nominee [~~candidate~~].

15 (c) An independent or write-in candidate for president
16 naming a replacement elector nominee or alternate elector nominee
17 [~~candidate~~] must file with the secretary of state, before
18 presidential election day, the name and residence address of the
19 replacement nominee [~~candidate~~] and a written statement, signed by
20 the replacement nominee [~~candidate~~], that the person consents to be
21 a nominee, and the executed pledge if required under Section
22 192.0031 [~~candidate~~].

23 (d) If a political party's rules do not provide the manner
24 of choosing a replacement elector nominee or alternate elector
25 nominee [~~candidate~~], the party's state executive committee may
26 choose the replacement nominee [~~candidate~~]. The state chair of a
27 political party naming a replacement elector nominee or alternate

1 elector nominee [~~candidate~~] must file with the secretary of state,
2 before presidential election day, the name and residence address of
3 the replacement nominee, and the executed pledge if required under
4 Section 192.0031 [~~candidate~~].

5 SECTION 5. Section 192.005, Election Code, is amended to
6 read as follows:

7 Sec. 192.005. VOTE REQUIRED FOR ELECTION. The set of
8 elector nominees or alternate elector nominees [~~candidates~~] that is
9 elected is the one that corresponds to the candidates for president
10 and vice-president receiving the most votes.

11 SECTION 6. Section 192.006, Election Code, is amended by
12 adding Subsections (d) and (e) to read as follows:

13 (d) If an elector or alternate elector resigns, dies, or is
14 declared ineligible on or after presidential election day or if a
15 vacancy occurs at the meeting of electors, the secretary of state
16 shall appoint an individual as a substitute elector to fill that
17 vacancy as follows:

18 (1) if the alternate elector is present to vote, by
19 appointing the alternate elector for the vacant position;

20 (2) if the alternate elector for the vacant position
21 is not present to vote, by appointing an elector chosen by lot from
22 the alternate electors present to vote who were nominated by the
23 same political party or presidential candidate;

24 (3) if the number of alternate electors present to
25 vote is insufficient to fill any vacant position under Subdivisions
26 (1) and (2), by appointing any immediately available individual who
27 is qualified to serve as an elector and chosen through nomination by

1 and plurality vote of the remaining electors, including nomination
2 and vote by a single elector if only one remains;

3 (4) if there is a tie between at least two nominees for
4 substitute elector in a vote conducted under Subdivision (3), by
5 appointing an elector chosen by lot from among those nominees; or

6 (5) if all elector positions are vacant and cannot be
7 filled under Subdivisions (1) through (4), by appointing a single
8 presidential elector, with the remaining vacant positions to be
9 filled under Subdivision (3) and, if necessary, Subdivision (4).

10 (e) If required by political party rule, to qualify as a
11 substitute elector under Subsection (d), an individual who has not
12 executed the pledge under Section 192.0031 shall execute the
13 following pledge: "I agree to serve and to mark my ballots for
14 President and Vice President consistent with the pledge of the
15 individual to whose elector position I have succeeded."

16 SECTION 7. Subchapter A, Chapter 192, Election Code, is
17 amended by adding Section 192.0061 to read as follows:

18 Sec. 192.0061. ELECTOR VOTING. (a) At the time designated
19 for elector voting and after all vacant positions have been filled
20 under Section 192.006, the chair shall provide each elector with a
21 presidential and a vice-presidential ballot. The elector shall mark
22 the elector's presidential and vice-presidential ballots with the
23 elector's votes for the offices of president and vice-president,
24 respectively, along with the elector's signature and the elector's
25 legibly printed name.

26 (b) Each elector shall present both completed ballots to the
27 chair, who shall examine the ballots and accept as cast all ballots

1 of electors whose votes are consistent with the requirements of
2 this chapter, including any pledges required to be executed under
3 Section 192.0031 or 192.006(e).

4 (c) An elector who refuses to present a ballot, presents an
5 unmarked ballot, presents a ballot marked in violation of any
6 pledge executed by the elector under Section 192.0031 or
7 192.006(e), or refuses or otherwise fails to vote for the
8 candidates for president and vice-president receiving the most
9 votes in this state in the general election:

10 (1) is ineligible to serve;

11 (2) may never serve as an elector or alternate elector
12 in this state; and

13 (3) vacates the office of elector, creating a vacant
14 position to be filled under Section 192.006.

15 (d) The chair shall distribute ballots to and collect
16 ballots from a substitute elector and repeat the process under this
17 section of examining ballots, declaring and filling vacant
18 positions as required, and recording appropriately completed
19 ballots from the substituted electors, until all of this state's
20 electoral votes have been cast and recorded.

21 SECTION 8. Section 192.007, Election Code, is amended to
22 read as follows:

23 Sec. 192.007. ELECTOR REPLACEMENT; ASSOCIATED CERTIFICATES
24 [AFTER ELECTION]. (a) After the vote of this state's electors is
25 completed, if the final list of electors differs from any list that
26 the secretary of state previously included on a certificate of
27 ascertainment prepared and transmitted under 3 U.S.C. Section 6,

1 the secretary of state immediately shall prepare an amended
2 certificate of ascertainment and transmit it to the governor for
3 the governor's signature [~~The electors meeting to vote for~~
4 ~~president and vice-president may appoint a replacement elector by a~~
5 ~~majority vote of the qualified electors present if:~~

6 ~~[(1) the vacancy occurred before presidential~~
7 ~~election day and a replacement was not chosen under Section~~
8 ~~192.004;~~

9 ~~[(2) on or after presidential election day, an elector~~
10 ~~is declared ineligible or dies; or~~

11 ~~[(3) the vacancy is declared under Section~~
12 ~~192.006(c)].~~

13 (b) The electors shall prepare a certificate of vote. The
14 electors on the final list shall sign the certificate. The electors
15 shall process and transmit the signed certificate with the amended
16 certificate of ascertainment under 3 U.S.C. Sections 9, 10, and 11
17 [~~chair of the electors shall notify the secretary of state of the~~
18 ~~name and residence address of a replacement elector immediately on~~
19 ~~the replacement's appointment].~~

20 SECTION 9. If any provision of this Act or its application
21 to any person or circumstance is held invalid, the invalidity does
22 not affect other provisions or applications of this Act that can be
23 given effect without the invalid provision or application, and to
24 this end the provisions of this Act are declared to be severable.

25 SECTION 10. This Act takes effect September 1, 2017.