ACLU
Texas

SPECIAL SESSION ANALYSIS: HOUSE ELECTION BILL HB3

After failing to pass a voter suppression bill during the regular legislative session in May, Gov. Greg Abbott convened a special session in July devoted to voter suppression and other bills that take away our civil liberties. Despite the objections of thousands of Texans and civil liberties organizations, voter suppression is again the highest priority bill: It's a suppression session.

On July 7, the House introduced its elections bill, House Bill (HB) 3. The bill builds on the omnibus voter suppression bill passed out of the House on May 7, 2021, and adopts some of the Senate's priorities that were reflected in the final Conference Committee Report. It includes a few changes to the voting process from the Democratic amendments to the May 7 House bill, some of which would be modestly helpful to voters, but these changes don't override the overall suppressive effects of this dangerous bill.

Voter suppression is 1) raising administrative barriers to make voting so cumbersome that voters get discouraged and don't participate, and 2) intimidating voters and others who participate in elections with threats to their physical safety or with criminal prosecution. Often these tactics are aimed at voters of color and disabled voters. HB 3 continues to feature both kinds of voter suppression, as outlined below.

Further restricts voting by mail (pp. 16-27, 37):
- Requires a vote-by-mail application and mail ballot to be completed using ink on paper and include the voter's driver license, social security number, or a statement that the voter lacks these forms of ID. If the information provided does not match what was provided in their voter registration application, the application or mail ballot must be rejected with no exceptions.
- Allows voters' signatures on mail ballot applications to be compared to any signature on record, removing requirements that the signature be recent and

that it must be compared to at least two signatures to prevent arbitrarily rejecting ballots, especially of older voters and voters with disabilities

- Adds a state jail felony to the election code for any public official that:
  - Solicits mail ballot applications (excepting general communications and posting application online)
  - Sends out unrequested VBM application
  - Uses public funds for third parties to distribute VBM applications (e.g. League of Women Voters)
  - Pre-fills any part of the VBM application for voters
- Contains a cure process for some rejected mail ballots, but does not allow cure for mistakes with respect to driver license numbers or social security numbers.

Limits when and where voting can take place, and removes county officials' discretion to set election times (pp. 6-11):
- Bans drive-thru voting
- Bans 24-hour and late-night voting used by shift workers in the November 2020 election
- Removes county officials' discretion in setting voting hours by generally limiting early voting to between 6 a.m. and 10 p.m.; except on Sundays which is limited to 9 a.m. to 10 p.m.

Makes it more difficult to help voters who need assistance (pp. 29-32; 38):
- Requires anyone who assists a voter to complete a form listing their contact information, relationship to the voter, and whether they received any form of compensation from a candidate, campaign, or political committee (this applies to in-person and vote-by-mail assistance)
- Enhances the oath an assistant must take to require an assistant to affirm, under penalty of perjury, that the voter represented to the assistant that the voter is eligible to receive assistance because of a physical disability or an inability to read the ballot language. This will prevent individuals who cannot or do not know they need to articulate the legal reason they are entitled to assistance from receiving it.
  - The oath also limits the type of help an assistant can provide a voter by no longer allowing the assistant to answer the voter's questions and limiting their assistance to reading the ballot, directing the voter to read the ballot, marking the voter's ballot, or directing the voter to mark the ballot. This prevents voters from receiving assistance in operating the voting machine or even in navigating the polling place.

ACLU
Texas

- Adds a state jail felony for violations of the oath and for offering, soliciting, or receiving compensation to assist voters with voting by mail

Empowers partisan poll watchers (pp. 11-15):
- Prevents election judges from removing watchers for violating the Election Code or Penal Code unless they have been previously warned and their conduct was witnessed by election staff (one time get-out-jail free card for voter intimidation)
- Allows watchers "free movement" in the polling place and entitles them to position themselves near enough to see and hear election activity
- Makes it an offense (Class B) for an election worker to knowingly refuse a watcher's presence in the polling place
- Makes it an offense (Class A) to obstruct a watcher
- Allows the appointing authority for watchers who believe that were wrongfully refused or obstructed to seek injunctive relief and other remedies through the courts
- Requires watchers to take an oath that they will not disrupt the voting process or harass voters

Adds vague criminal offenses (pp. 35-37):
- Adds a third-degree felony for poorly defined "vote harvesting services," which could be interpreted to include normal, in-person campaign activity
- Adds prohibition against knowingly or intentionally making any effort to prevent a voter from casting a ballot
- Adds prohibition against providing false information to voter with the intent of preventing them from voting

ACLU
Texas