



Texas

SPECIAL SESSION ANALYSIS: SB 1 SENATE ELECTION BILL

July 8, 2021

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 8, the Senate introduced its elections bill, Senate Bill 1. The bill is very similar to the omnibus voter suppression bill that came out of the conference committee at the end of the regular session on May 31. The bill removes two controversial provisions: making it easier to overturn elections and limiting Sunday voting hours that would threaten "Souls to the Polls" programs in Black churches. Unlike the House version of the bill (HB3) the Senate version does not include Democratic amendments from a May 7 vote that slightly improve the election code in some cases.

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. SB 1 continues to feature both kinds of voter suppression.

***Empowers the secretary of state to purge voter rolls and the attorney general to pursue baseless investigations:**

- Sets up the possibility of another failed voter purge by mandating that the secretary of state use unreliable Department of Public Safety information regarding citizenship as a basis for removing individuals from the voting rolls -- specifically disenfranchising naturalized citizens.
- Subjects voters who lawfully move to another county to criminal investigation by the attorney general if they do not inform their prior voter registrar of their move -- which is not required by law.

Further restricts voting by mail (pp. 16-27, 37):

- Requires a vote-by-mail (VBM) application and mail ballot to be completed using ink on paper. The application must also include the voter's driver license, social security number, or a statement that the voter lacks these forms of ID. If the information

* Items not in HB3

provided does not match what was provided in their voter registration application, the application or mail ballot must be rejected with no exceptions -- creating yet another bureaucratic barrier to deny legal voters their right to cast a ballot.

- 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.
- Bans public officials from:
 - Soliciting mail ballot applications
 - Sending out unrequested VBM application
 - Using public funds for third parties to distribute VBM applications (e.g. League of Women Voters)
 - The House version bans such action *and* makes them state jail felonies. It also includes exemptions for distributing general information
- Contains a cure process for some rejected mail ballots, but arbitrarily does not allow cure for mistakes with respect to driver license numbers or social security numbers.

Limits when and where people can vote 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 9 p.m.; except on Sundays, which is limited to 9 a.m. to 9 p.m. (House version permits voting until 10 p.m.).

Makes it more difficult to help voters who need assistance (pp. 32-36):

- *For voters who vote curbside, anyone in the car who would not be entitled to be in a physical voting booth with the voter will need to exit the car, even in inclement weather.
- *Non-family members who drive three or more individuals to the polls must sign a new form.
- Anyone who assists a voter must fill out 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 for assistants" 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 prevents an assistant from "encourag[ing]" a voter to choose them, limiting many legal and unobjectionable forms of assistance.
- 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.

Empowers partisan poll watchers (pp. 13-15):

- *Does not contain restrictions on removing poll watchers as found in House Version*
- 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 watchers or candidates who appointed the watcher, who believe they were wrongfully refused or obstructed, to seek injunctive relief and other remedies through the courts (House version does not apply to watchers; only the candidates can seek such relief).
- Requires watchers to take an oath that they will not disrupt the voting process or harass voters.

Adds vague criminal and civil offenses (pp. 38-42) :

- Adds a third-degree felony for poorly defined “vote harvesting services,” which could be interpreted to include normal, in-person campaign activity, and includes civil liability component that is not in House version.
- Threatens election workers with loss of their government employment and pension for unintentional mistakes (not in House version).