

ELECTION LAWS AND VOTING RIGHTS, REVISED 1999

The League of Women Voters of Texas supports every citizen's right to vote, improvement in voter registration procedures, uniformly enforced election procedures, clearly stated election laws [that facilitate citizen participation], and the right to a secret ballot. Specific measures include

- adequate safeguards against fraud (voter's personal signature on the registration application as well as on the registration card; signature identification at the polls; and accurate and current registration lists periodically revised)
- convenience to the voters
- impartiality of treatment for all voters
- no declaration of party affiliation when registering
- revision of election laws to ensure enforcement
- supervision of all local elections by a single county election authority responsible to a central state authority
- mandatory uniform training for all election personnel
- provision for jointly conducted primaries

Criteria for election administration should include

- reasonable costs for conducting elections
- election laws and procedures that uniformly and regularly produce honest and accurate results

The League of Women Voters of Texas supports election laws that facilitate citizen participation and voter convenience. Specifically, the League supports

- the use of uniform election dates for local and state elections whenever possible.
- consolidation of polling places when several governmental entities conduct elections simultaneously.
- reduction of the number of days between the primary and general elections.

Explanation: Voting Rights

The right of every citizen to vote is a principle of the League of Women Voters. The 1976 national Convention delegates adopted voting rights as an integral part of the national program. This added impetus to the Texas state position and provided additional ways for Leagues to take action through vertical programming.

In 1991 the board of directors of LWVUS launched the campaign to "Take Back the System" as the top priority of the League. Included in this campaign was a major grassroots effort to pass the National Voter Registration Act (NVRA), finally passed by Congress in 1993.

The League of Women Voters believes the legislature should be given the responsibility and the necessary authority to build a statutory framework essential for a proper electoral system. The specific details of election administration are thus left to legislation.

During Periodic Program Review, 1998-99, positions dealing with election laws which had been part of "Political Campaign Process" were moved to be part of "Election Laws and Voting Rights," where they seemed to fit more logically.

History: Voting Rights

1985-1986: A bill re-codifying the election code was passed by the 1985 Legislature; it became effective January 1, 1986. The re-codification was a result of more than a year's work by the Joint House-Senate Select Committee on Election Code Revision and its advisory committee. LWV-TX was

represented on the advisory committee and actively supported the re-codification bill during the session. With passage of this legislation, the LWV-TX position on re-codification was achieved after many years of advocacy. Therefore, delegates to the 1987 League Convention voted to drop the position.

In addition to eliminating obsolete matter and clarifying some ambiguous provisions, the re-codification addressed several of our other positions including: mandatory uniform training for all election personnel; supervision of all local elections by a single county election official responsible to a single state authority; protection of secrecy of the ballot; and restoration of voting rights to ex-felons two years after completion of probation, parole, or mandatory supervision.

1987-1989: During the 1987 legislative session, the League supported a bill providing for conjointly operated primaries, which failed to pass. A bill requiring agency-based voter registration passed the legislature but was vetoed by the governor.

In 1989 the League supported an omnibus voter registration bill that included voter registration when a person applies for a driver's license or personal identification ("motor voter"), a change in the purge date, and changes in the method of verification by computer. This legislation passed the Senate but died in the House.

1991: The 1991 session was a productive one for voting rights issues. A motor voter bill was introduced and strongly supported by the League. Although it appeared to be progressing well, in the waning hours of the session the bill was withdrawn from House consideration by its sponsor when it appeared that strong opposition to the method of funding was certain to kill the bill. However, a similar bill passed quietly through the first special session as a small addendum to the weighty bill reorganizing the Texas Highway Department and the Department of Aviation into the new Texas Department of Transportation. Thus, without fanfare, Texas joined the vanguard of states with motor voter legislation in place.

Additionally, the League supported legislation to extend hours of early (formerly "absentee") voting in person in counties with a population of 100,000 or more, and in counties of 400,000 or more to provide additional places for early voting. This bill eventually passed. Other successful bills supported by the League included one that amends the voter application form by identifying the "county in which applicant resides and intends to vote." Another bill broadens the jury source to include all those who have a valid driver's license or personal identification card issued by the Department of Public Safety.

1993: In 1993, two bills were introduced which would have facilitated voter accessibility to the electoral process by permitting voter registration at all state agencies dealing directly with the public and allowing election day registration at polling places. The League supported these measures and countered opponents' arguments with evidence that similar laws in other states do not encourage fraudulent practices. The bills died in committee.

In the study of the Political Campaign Process in Texas (1991-1993), League members reached consensus in support of changes in election laws to shorten the election cycle. The League believes that a shorter cycle would reduce the cost of campaigning and lessen the pressure on candidates to raise enormous amounts of money. A shorter election cycle was also one of the Texas Ethics Commission's recommendations to the 73rd Legislature. There was some discussion of this recommendation in committee hearings during the 1993 session, but the topic did not gain sufficient momentum for serious consideration.

1994-1995: LWV-TX Voting Rights efforts during this period focused on assuring full implementation of the NVRA in this state. This national "motor voter" law, which went into effect in January 1995,

extends Texas' previously enacted motor voter by providing for voter registration at additional government agencies, including those that serve people with disabilities or provide public assistance.

Bills enacted in the 1995 legislative session established implementation procedures that have brought Texas into full compliance with the federal statute.

A League representative serves on the state's NVRA Task Force, appointed by the Secretary of State, and charged with assisting Texas to achieve the NVRA's goals. The next step for the League and other "motor voter" advocates is monitoring agencies to ensure that the process is fully implemented and that it works. As we monitor agencies, we hope to learn: Are individuals asked about voter registration? Are voter registration applications readily available? Is assistance offered in completing voter registration applications?

Our position on voting rights is an important way of helping to achieve the purpose of the League of Women Voters to encourage citizens to participate in their government. The League will continue to take action to support the right of every eligible citizen to vote. Though many of the improvements called for in our positions have been implemented, we retain some positions to enable us to act should these rights be threatened, as the following two examples illustrate. In one case, many counties have central election authorities, but many legislators are not comfortable with this arrangement. In the second case, the League believes that a declaration of party affiliation is detrimental to the establishment of a strong two-party system in Texas. Year-round registration with no fee and no party declaration has been in effect for some time in Texas. However, there remain those who would like to see this undone, so we retain our position. In summary, much work for secure voting rights remains, though progress is being made.

2001: After disappointments in several past sessions, both houses of the legislature passed, and the governor signed into law a bill which removed at least three of the ten exemptions from the Election Code that provides for four uniform election dates. "This is a bill whose time has come" was the focus of League testimony and work with a special statewide Uniform Election Dates coalition. This reform has been long in coming. A major exemption, and one that created the most controversy, that of school bond elections, has been curtailed. Two of the dates have also been changed to the first Saturday in February and the second Saturday in September. A bill that would have consolidated polling places when several governmental entities conduct elections simultaneously failed to pass.

2003: The legislature passed and the Governor signed a bill that implements the Help American Vote Act (HAVA). LWVUS and LWV-TX have been actively involved in HAVA since its inception.

Following federal guidelines, the state HAVA bill requires the state to expand the size of its voter registration application to include space for additional requirements and additional voter instructions. It also requires the state to create a statewide, computerized voter registration system that will be the official database for all voter registration purposes. It sets up an administrative complaint process; develops and implements a provisional voter program; places a Direct Recording Electronic (DRE) device in each polling place for disabled voters; creates additional instructional information for voters, including a voter's bill of rights; and launches a voter education program.

The state HAVA legislation includes no state funds, but provides the legal basis for the state to appropriate funds that will be provided by the federal government. Much of the funding will be transferred to county governments to enable them to satisfy new federal mandates.

The most significant change in this legislation for Texas is going from the current system of challenge

ballots to one of provisional ballots. This means that any ballot cast by voters who can't prove (by affidavit) that they are registered, would go to a board that would determine if the ballot should be counted. The bill contains detailed procedures for determining eligibility, how the ballots are handled, how they are counted, disposition, etc. Because of the additional time required for this review, the time period for holding runoff elections will be extended from 3 to 4 weeks.

The legislature also dealt with other election issues such as uniform election dates (which will have to be tweaked during the special session), tightening loopholes and developing methods for electronic filing and transfer of campaign data, posting and publicizing a list of voter's rights, and removing the postage paid from the voter registration card. Legislation giving all persons completing a felony sentence voter information at the completion of their sentence, when they in fact become eligible to register to vote did not pass.

2005 : Many election law changes were proposed in the 79th session. Five of the bills signed into law related to our positions. HB57 (Denny) reduced the number of election dates elections from four to two. Reducing the number of election dates is a long-held LWV-TX position. The bill eliminated the February and September election, and changed the May election to the second Saturday. The November election date remains the first Tuesday after the first Monday in November. The bill laid out the procedures for early voting in May and for making the transition to the May and November election.

The issue of a re-countable voting system did not have support. (See *Impact on Issues 2006-2008*, LWVUS for the position on electronic voting adopted by the 2006 LWVUS Convention.) The closest Texas came to addressing electronic voting machines (DRE's) was making tampering with DRE's a 3rd degree felon, HB 56 (Denny).

HB 2465 (Denny) dealt with public hearings on approval of electronic voting machines. LWV-TX strongly supported an amendment to this bill that would have strengthened the bill by requiring testing methods such as electronic hash code testing before and after the election, parallel testing of programming and equipment during the early voting and post election, and verification counts from each redundant electronic source provided by the voting system. The amendment failed and Texas was left with weak protection from fraud in connection with DRE's.

Two other bills that addressed ease of voting issues : HB 120 (Gattis) related to using regular polling places even if the regular polling place of the election precinct is not located wholly in the political subdivision holding the election; and HB 2454 (Jones, J) would allow a registered voter who has resided in a new county for less than 90 days to vote a limited ballot.

There was a strong push for legislation to require a photo ID at the polls (LWV-TX was part of a coalition that worked against this bill, and it died in committee), and there will be a strong push in 2007 to adopt a photo ID bill. During the interim there will be a focus by the attorney-general's office on potential voter fraud.

HAVA implementation proceeded on schedule. LWV-TX continued to meet with the Secretary of State to keep up to date on HAVA progress in Texas while offering assistance that would be needed to implement the reforms.

2007: Five bills regarding the ballot and elections supported by the LWV-TX passed and were signed by the Governor. They are: SB 90-related to establishment of a pilot program to provide a ballot by electronic mail to military personnel serving overseas; HB 629 related to the consolidation of elections; HB 2823 related to voting by a person who applied for a ballot by mail. Voters can request provisional ballots if they did not receive their ballot by mail; HB 3105 related to a program allowing for countywide voting locations for elections.

HB 770 requiring the Texas Department of criminal justice to give notice to certain persons of their

right to vote, supported by the LWV-TX, was passed by the legislature, but was vetoed by the governor.

HB 218 opposed by LWV-TX, called the Voter ID bill was narrowly defeated when Senator Mario Gallegos, recovering from a liver transplant, brought a hospital bed to the Capitol to vote against the bill.

[Reference Available: \(Advocacy Paper\) *Helping Texans Vote: Implementing the Help America Vote Act in Texas, 2005.*](#)