



**STATEMENT OF
ANDY BROWN, TRAVIS COUNTY JUDGE
TRAVIS COUNTY TEXAS**

**UNITED STATES HOUSE OF REPRESENTATIVES
COMMITTEE ON HOUSE ADMINISTRATION
SUBCOMMITTEE ON ELECTIONS**

“Voting in America: Ensuring Free and Fair Access to the Ballot in Texas”

March 17, 2022

Chairman Butterfield, Ranking Member Steil, and members of the Subcommittee, thank you for the opportunity to be with you today to speak about all that we are doing at the local level to protect voting rights, to maintain confidence in our electoral process, and the challenges that Senate Bill 1 (“SB1”) has caused for local governments. Voting is a fundamental right and local elected officials have the tremendous responsibility to ensure the electoral process is safe, reliable, and accessible. My testimony today will focus on all that Travis County has done to uphold this sacred responsibility and how SB1 has made that more challenging and undermined civic participation in elections in Texas.

I am the Travis County Judge. In Texas, the county judge functions as the presiding officer over the commissioner's court which is the locally elected county policy making and budget body. The county government provides services through multiple locally elected officials rather than in one authority; however, the commissioner’s court is responsible for making policy making and budget decisions, including for other elected offices. In Travis County, the responsibility for administering the election is centered in our county clerk’s office.

Senate Bill 1 has made it more difficult for voters to cast their ballots, stifled innovation, undermined trust in our democracy, and chipped away at one of the foundation stones of our electoral process – voluntary participation as election workers – by making the job more difficult while also adding criminal liability to the job.

a. SB1 PLACES BURDENS ON ELECTION WORKERS

Election workers are the backbone of our democracy. They help ensure that elections can function, and voters can cast their ballot. They are often temporary positions with relatively low pay. SB1 created new rules for partisan poll watchers that allows them “free movement” within a polling location and where ballots are counted, with limited exceptions. It is now a criminal offense for an election worker to obstruct a poll watcher “in a manner that would make observation not reasonably effective.” Adding uncertainty and difficulty to this is a lack of instruction for these partisan poll workers as to the limits of their abilities. Our election officials have already observed poll watchers interfering with election workers simply doing their jobs.

Parties, candidates, and ballot measures may appoint poll watchers. Their job is to verify accuracy and observe the counting process. However, Travis County elections workers observed that these new poll watchers also ask questions to the point of practically conducting interviews of election workers when those same election workers are doing their jobs carrying out the ballot counting process. In the 2022 Primary, this caused impediments and delayed the counting process. Before SB1, there was a physical area dedicated to poll watchers viewing the counting process through glass. They are no longer limited to this area which increases the potential to go beyond watching and instead interfere.

SB1 created felony and misdemeanor criminal penalties for election workers and election administrators. COVID-19 made hiring election workers difficult, but SB1 has added to the difficulties in hiring election workers—especially seasonal, low-paid election workers. Many in this profession are leaving due to the increased risk and personal liability involved.

We know that both volunteerism and civic engagement in the electoral process is necessary for a fair, safe, and accessible process. On a positive note, we have a strong culture of volunteerism and civic engagement in Travis County. During our COVID-19 drive-thru vaccine clinics, over 3,200 people volunteered at one of the County sponsored drive-thru vaccine clinics and over 300 people volunteered more than three times at a clinic. We know our community will show up when we need them. We recently increased the wages for election workers in Travis County from \$12 per hour to \$15-20 per hour. With less than four percent unemployment in Travis County, we are relying more and more heavily on the volunteer spirit of our community. SB1 forces these volunteers and lower-paid workers to take on additional personal liability, adding to what is already a demanding and difficult job.

It appears that SB1 has caused a decline in volunteer and willingness of seasonal workers in Texas. We need further study and analysis on this question.

b. SB1 MAKES IT HARDER FOR VOTERS TO CAST THEIR VOTE.

SB1 made casting a ballot harder for Texans, and stifled innovation – the opposite of what we should strive for. The ability to innovate is key to our ability to nimbly respond to meet the needs of our community, especially during COVID. As one example of innovation, we partnered with neighboring counties- both Republican and Democratic County Judges--and quickly stood up the largest non-FEMA drive-thru vaccine site in the State of Texas, at the Formula One racetrack, and safely vaccinated tens of thousands of people there. We saw firsthand how bringing resources to people and removing barriers to access kept people safe, was reliable, made the process easier, and increased participation.

We should see similar innovations in ways to make it easier and safer for registered voters to exercise their constitutional rights using drive-through locations, expanded voting hours, and more. The goal should be ease of access, not adding unnecessary barriers. Drive through vaccination sites, like drive through voting sites, can reduce the spread of COVID because people don't have to be indoors with other people they don't live with for extended periods. Rather than support these kinds of innovations that would help us keep our community safe and encourage more people to participate in our democracy, SB1 banned drive through voting. For everyone from parents of young children to those adults who are caring for an aging parent, innovation in reducing barriers to voting should be promoted, not stifled.

SB1 also banned 24-hour voting. This year, during our March 1 primary election, Travis County experienced a severe winter storm. This storm made it necessary to close early voting early one evening and reduce hours on another day for safety reasons. This would be less significant of an impact if more options, like 24-hour voting, were available. 24-hour voting would obviously allow those with work schedules that make voting during regular hours additional opportunities to vote.

SB1 also—inexplicably--made it illegal for election officials to send mail ballot applications, including to already eligible voters 65 and older, unless the voter specifically reaches out and requests the application. Many older voters are used to counties sending them mail-in ballot applications automatically, and many voters report to frustration to election officials when learning that they will not receive their applications automatically. Some even missed application deadlines as a result.

Thankfully, federal law mandates curbside voting and requires its availability for voters with disabilities who could otherwise not enter the polls safely. Because of these federal protections, curbside voting has been and will continue to be offered at all polling locations during both Early Voting and on Election Day.

The November 2020 Presidential election presented election administrators with many new challenges due to the COVID-19 pandemic. Election administrators had to come up with last minute innovations to make voting safe and accessible during this unprecedented time. SB1 was a direct result of the legislature targeting new and successful innovations that we implemented during the November 2020 Presidential Election.

There is no data I have seen to support or justify removing the in-person drive thru option to vote or drop off ballots or 24-hour voting, except for the desire to add barriers and suppress registered voters' ability to exercise their constitutional rights.

Rather than repress voters, we must allow everyone the opportunity to vote, even if it's to accommodate a small percentage of the voter population that work non-traditional hours like our first responders – hospital staff, emergency personnel, as well as parents/guardians of young children; their votes count. We should also be able to guide and inform those who don't understand the voting laws. We understand the importance of enforcing laws to prevent voting fraud, however, SB1 misses the mark and creates unnecessary barriers to registered voters exercising their constitutional rights.

c. SB1'S IMPACT ON THE 2022 PRIMARY

SB1 required voters to provide either a driver's license number or a Social Security number on their mail in ballot application. Whichever number they provide on the mail-in ballot application must be an exact match with the identification number on the voter's record—whatever number they chose to put on their registration card, potentially decades earlier. This created the largest ballot related challenges that Travis County faced in preparation for the March 1 primary.

The Texas Secretary of State failed to timely provide guidance on how to educate voters on the new requirements. The Secretary of State also failed to provide timely guidance for how local elected officials should proceed if a ballot was rejected. Most people do not recall exactly what form of identification they used when they originally registered to vote, and thus whether their identification number is their driver's license number, or their social security number.

The Texas Secretary of State did not provide clear timely guidance on whether and how election officials could let voters know if a discrepancy was identified. The Secretary of State did have a website to log onto to make corrections; however, when Travis County staff logged onto the site, nothing was there. The Secretary of State eventually corrected the problem with the website.

Travis County received 11,602 mail-in ballots for the 2022 primary election. Of those, approximately sixteen percent were initially slated for rejection. Travis County elections hired additional

staff and made 1,200 phone calls to help voters cure the ballot issues. As a result of these efforts, about half of the ballot issues were cured and the final rejection rate was about eight percent, or 948 voters. Compare this to the pre-SB1 2018 primary election, where Travis County received 9,259 mail ballots, and only rejected 156 ballots, a one-point seven percent rejection rate.

d. SB1 CAUSED SIGNIFICANT ADMINISTRATIVE BURDENS.

SB1 created numerous administrative burdens for election officials. Governor Abbot signed SB1 into law on September 7, 2021, with enforcement beginning on December 2, 2021. That was only sixty-two days before the last day to register to vote for the January 31, 2022, primary, and seventy-six days before the first day of early voting for the March 1, 2022, primary. This left little time for election officials to digest the new law and implement new processes for the numerous requirements in the bill.

SB1 required a video live feed of all areas containing voted ballots with no funding and little time and less guidance from the State of Texas for implementation. Complying with this requirement meant adding four cameras and additional website capacity, as well as space to store the recordings for one year. This will cost Travis County taxpayers over \$23,000 a year, not reimbursed by the State of Texas, in addition to costs of additional staff time and equipment. During the March 1 Primary Election Day, the video live feed temporarily overwhelmed the Travis County website and went down. The live feed was offline for around 40 minutes. Despite being down, all recordings of ballot movement continued and are still accessible and no data was lost.

SB1 and the State's delayed interpretation, coupled with the supply chain issue created challenges in acquiring certain required supplies. Because of the later interpretation of the law, quick turnaround was required for ballot stock, envelopes, and election supplies, causing many last-minute challenges.

One of the most significant challenges SB1 brought was the short time frame to understand the changes, obtain the resources need to comply with the changes and execute in a manner that is fair and just. SB1 caused more challenges for the local governments rather than preventing any voter fraud.

e. FEDERAL ACTION COULD ASSIST IN ADDRESSING SOME OF THE HARM CAUSED BY SB1.

Bills like the Freedom to Vote Act ("FTVA") could reduce opportunities for partisan interference and mitigate the risk of error in the election process. Federal laws to modernize and protect our election process could also provide protection from voter intimidation by making it unlawful to harass poll workers, volunteers, or any election official, and provide civil remedy for any violations. Voters and election workers deserve a safe, reliable, efficient, and accessible voting process.

Bills like the FTVA would help election officials respond to mail-in ballot challenges by establishing a no-excuse mail voting for voters. It proposed that each jurisdiction be required to provide drop boxes and make them available to voters for a reasonable number of hours, one of which must accessible be for twenty-four hours a day during a voting period. The FTVA would have created more accessibility by allowing voters to access online mail ballot applications to eligible voters and will also allow the distribution of mail ballot applications without criminal penalties. These types of provisions can help ensure that every eligible voter has a fair opportunity to have their vote count.

In closing, SB1 creates additional challenges for officially accepting mail ballots. The requirement of identifying information such as driver's license and social security numbers can result in a large and unnecessary number of ballot rejections. The relief that SB1 attempts to provide by allowing voters to correct errors unfortunately leans on the discretion of election officials. FTVA would instead prohibit states from rejecting mail ballots for reasons that are not specific to a voter's eligibility. Additionally, it requires the voter to be notified within one business day and allows three days after the mail ballot deadline to correct errors. These provisions seek to ensure there are protocols that provide the opportunity for remedy and not immediate rejection.

Thank you again for the opportunity to testify today.