

ELECTION CODE

TITLE 3. ELECTION OFFICERS AND OBSERVERS

CHAPTER 33. WATCHERS

SUBCHAPTER A. APPOINTMENT

Sec. 33.001. WATCHER DEFINED. In this code, "watcher" means a person appointed under this subchapter to observe the conduct of an election on behalf of a candidate, a political party, or the proponents or opponents of a measure.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

Sec. 33.002. APPOINTMENT BY CANDIDATE. (a) Watchers may be appointed by each candidate whose name appears on the ballot or the list of declared write-in candidates in an election for:

(1) a public office other than the office of vice-president of the United States; or

(2) an office of a political party.

(b) In an election for an office of the state government that is filled by voters of more than one county, watchers may also be appointed by the candidate's campaign treasurer.

(c) In an election for an office of the federal government that is filled by voters of more than one county, watchers may also be appointed by the chair or treasurer of the candidate's principal campaign committee or by a designated agent of the chair or treasurer.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1997, 75th Leg., ch. 864, Sec. 32, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1349, Sec. 15, eff. Sept. 1, 1997.

Sec. 33.003. APPOINTMENT BY POLITICAL PARTY. (a) The county chair of each political party that has one or more nominees on the

ballot may appoint watchers.

(b) If the county chair does not make an authorized appointment, any three members of the county executive committee may make the appointment.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1997, 75th Leg., ch. 864, Sec. 33, eff. Sept. 1, 1997.

Sec. 33.004. APPOINTMENT FOR WRITE-IN CANDIDATE. (a) A group of registered voters may appoint watchers on behalf of a write-in candidate in an election in which a declaration of write-in candidacy is not required to be filed.

(b) To be eligible to participate in the appointment under this section of a watcher for a precinct polling place, a person must be a registered voter of the precinct. To be eligible to participate in the appointment under this section of a watcher for an early voting polling place, the meeting place of an early voting ballot board, or a central counting station, a person must be a registered voter of the territory served by that facility.

(c) The minimum number of voters required to make an appointment under this section is the lesser of:

(1) 15; or

(2) five percent of the registered voters of the appropriate territory as determined from the list of registered voters to be used for the election.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1991, 72nd Leg., ch. 203, Sec. 2.38; Acts 1991, 72nd Leg., ch. 554, Sec. 9, eff. Sept. 1, 1991; Acts 1997, 75th Leg., ch. 1349, Sec. 16, eff. Sept. 1, 1997.

Sec. 33.005. APPOINTMENT FOR ELECTION ON MEASURE. (a) In an election on a measure, watchers may be appointed by the campaign treasurer or an assistant campaign treasurer of a specific-purpose

political committee that supports or opposes the measure.

(b) This section does not apply to a referendum measure submitted at a primary election.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

Sec. 33.006. CERTIFICATE OF APPOINTMENT. (a) For an appointment of a watcher to be effective, the appointing authority must issue a certificate of appointment to the appointee.

(b) A certificate of appointment must:

(1) be in writing and signed by the appointing authority or, for an appointment for a write-in candidate under Section 33.004, by each of the voters making the appointment;

(2) indicate the capacity in which the appointing authority is acting;

(3) state the name, residence address, and voter registration number of the appointee and be signed by the appointee;

(4) identify the election and the precinct polling place or other location at which the appointee is to serve;

(5) in an election on a measure, identify the measure if more than one is to be voted on and state which side of the measure the appointee represents; and

(6) contain an affidavit executed by the appointee stating that the appointee will not have possession of any mechanical or electronic means of recording images or sound while serving as a watcher.

(c) In addition to complying with Subsection (b), a certificate issued to a watcher appointed for a write-in candidate under Section 33.004 must:

(1) include the residence address and voter registration number of eligible signers in the required number;

(2) include the signed statement of the candidate, or a

person who would be authorized to make appointments on the candidate's behalf if the candidate's name appeared on the ballot, that the appointment is made with the signer's consent; and

(3) state the residence or office address of the signer under Subdivision (2) and the capacity in which the signer signs, if the statement is not signed by the candidate.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1987, 70th Leg., ch. 498, Sec. 1, eff. Sept. 1, 1987; Acts 1993, 73rd Leg., ch. 728, Sec. 8, eff. Sept. 1, 1993; Acts 1997, 75th Leg., ch. 864, Sec. 34, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1349, Sec. 17, eff. Sept. 1, 1997.

Sec. 33.007. NUMBER AND PLACE OF SERVICE OF WATCHERS.

(a) Each appointing authority may appoint not more than two watchers for each precinct polling place, meeting place for an early voting ballot board, or central counting station involved in the election.

(b) Each appointing authority may appoint not more than seven watchers for each main or branch early voting polling place involved in the election. Not more than two watchers appointed by the same authority may be on duty at the same early voting polling place at the same time.

(c) In an election in which the election officers serving at a precinct polling place also serve as an early voting ballot board, a watcher who is appointed for the precinct polling place may observe the processing of early voting ballots by the early voting ballot board, or separate watchers may be appointed to observe only that activity.

(d) The number of watchers accepted for service on each side of a measure may not exceed the number authorized by this section.

If the number of appointments exceeds the authorized number, the authority accepting the watchers for service shall accept the

watchers in the order in which they present their certificates of appointment.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1991, 72nd Leg., ch. 203, Sec. 2.39; Acts 1991, 72nd Leg., ch. 554, Sec. 10, eff. Sept. 1, 1991.

SUBCHAPTER B. ELIGIBILITY

Sec. 33.031. GENERAL ELIGIBILITY REQUIREMENTS. (a) To be eligible to serve as a watcher, a person must be a qualified voter:

(1) of the county in which the person is to serve, in an election ordered by the governor or a county authority or in a primary election;

(2) of the part of the county in which the election is held, in an election ordered by the governor or a county authority that does not cover the entire county of the person's residence; and

(3) of the political subdivision, in an election ordered by an authority of a political subdivision other than a county.

(b) The Alcoholic Beverage Code supersedes this section to the extent of any conflict.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

Sec. 33.032. INELIGIBILITY OF CANDIDATE FOR PUBLIC OFFICE.

(a) A person is ineligible to serve as a watcher in an election if the person is a candidate for a public office in an election to be held on the same day.

(b) In this section, "candidate" means a person who has taken affirmative action, as described by the law regulating political funds and campaigns, for the purpose of gaining nomination or election.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

Sec. 33.033. INELIGIBILITY OF EMPLOYEE OR RELATIVE OF ELECTION OFFICER. (a) A person is ineligible to serve as a watcher at a particular location if the person is the employer of or is employed by or related within the second degree by consanguinity or affinity, as determined under Chapter 573, Government Code, to an election judge, an election clerk, an early voting clerk, or a deputy clerk serving at that location.

(b) For purposes of this section, a person is employed by an election officer in the same circumstances that a person is employed by a candidate under Section 32.054(b).

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1991, 72nd Leg., ch. 203, Sec. 2.40; Acts 1991, 72nd Leg., ch. 554, Sec. 11, eff. Sept. 1, 1991; Acts 1991, 72nd Leg., ch. 561, Sec. 16, eff. Aug. 26, 1991; Acts 1995, 74th Leg., ch. 76, Sec. 5.95(27), eff. Sept. 1, 1995.

Sec. 33.034. INELIGIBILITY OF PUBLIC OFFICER. (a) A person who holds an elective public office is ineligible to serve as a watcher in an election.

(b) For purposes of this section, a deputy or assistant serving under a public officer does not hold a public office.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

Sec. 33.035. INELIGIBILITY OF PERSON CONVICTED OF ELECTION OFFENSE. A person is ineligible to serve as a watcher in an election if the person has been finally convicted of an offense in connection with conduct directly attributable to an election.

Added by Acts 1997, 75th Leg., ch. 1349, Sec. 18, eff. Sept. 1, 1997.

SUBCHAPTER C. SERVICE

Sec. 33.051. ACCEPTANCE OF WATCHER. (a) A watcher appointed

to serve at a precinct polling place, a meeting place for an early voting ballot board, or a central counting station must deliver a certificate of appointment to the presiding judge at the time the watcher reports for service. A watcher appointed to serve at an early voting polling place must deliver a certificate of appointment to the early voting clerk or deputy clerk in charge of the polling place when the watcher first reports for service.

(b) The officer presented with a watcher's certificate of appointment shall require the watcher to countersign the certificate to ensure that the watcher is the same person who signed the certificate. Except as provided by Subsection (c), a watcher who presents himself or herself at the proper time with a certificate of appointment shall be accepted for service unless the person is ineligible to serve or the number of appointees to which the appointing authority is entitled have already been accepted.

(c) A watcher may not be accepted for service if the watcher has possession of any mechanical or electronic means of recording images or sound. The presiding judge may inquire whether a watcher has possession of any prohibited recording device before accepting the watcher for service.

(d) The certificate of a watcher serving at an early voting polling place shall be retained at the polling place until voting at the polling place is concluded. At each subsequent time that the watcher reports for service, the watcher shall inform the clerk or deputy in charge. The officer may require the watcher to sign the watcher's name in the officer's presence, for comparison with the signature on the certificate, if the officer is uncertain of the watcher's identity.

(e) If a watcher is not accepted for service, the certificate of appointment shall be returned to the watcher with a signed statement of the reason for the rejection.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended

by Acts 1987, 70th Leg., ch. 498, Sec. 2, eff. Sept. 1, 1987; Acts 1991, 72nd Leg., ch. 203, Sec. 2.41; Acts 1991, 72nd Leg., ch. 554, Sec. 12, eff. Sept. 1, 1991; Acts 1993, 73rd Leg., ch. 728, Sec. 9, eff. Sept. 1, 1993; Acts 1997, 75th Leg., ch. 864, Sec. 35, eff. Sept. 1, 1997.

Sec. 33.052. HOURS OF SERVICE AT PRECINCT POLLING PLACE. (a) A watcher at a precinct polling place may begin service at any time after the presiding judge arrives at the polling place on election day and may remain at the polling place until the presiding judge and the clerks complete their duties there. A watcher that serves for more than five continuous hours may serve at the polling place during the hours the watcher chooses, except that if the watcher is present at the polling place when ballots are counted, the watcher may not leave until the counting is complete.

(b) For purposes of this section, a watcher is considered to have served continuously if the watcher leaves the polling place for the purpose of using a wireless communication device prohibited from use in the polling place under Section 61.013 and the watcher promptly returns.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1987, 70th Leg., ch. 472, Sec. 7, eff. Sept. 1, 1987; Acts 1997, 75th Leg., ch. 864, Sec. 36, eff. Sept. 1, 1997; Acts 2003, 78th Leg., ch. 254, Sec. 1, 2, eff. Sept. 1, 2003.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 697, Sec. 3, eff. September 1, 2007.

Sec. 33.053. HOURS OF SERVICE AT EARLY VOTING POLLING PLACE. A watcher serving at an early voting polling place may be present at the polling place at any time it is open and until completion of the securing of any voting equipment used at the polling place that

is required to be secured on the close of voting each day. The watcher may serve during the hours the watcher chooses.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1991, 72nd Leg., ch. 203, Sec. 2.42; Acts 1991, 72nd Leg., ch. 554, Sec. 13, eff. Sept. 1, 1991; Acts 1997, 75th Leg., ch. 864, Sec. 37, eff. Sept. 1, 1997.

Sec. 33.054. HOURS OF SERVICE AT EARLY VOTING BALLOT BOARD MEETING. (a) A watcher serving at the meeting place of an early voting ballot board may be present at any time the board is processing or counting ballots and until the board completes its duties. The watcher may serve during the hours the watcher chooses, except as provided by Subsection (b).

(b) A watcher may not leave during voting hours on election day without the presiding judge's permission if the board has recorded any votes cast on voting machines or counted any ballots, unless the board has completed its duties and has been dismissed by the presiding judge.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1991, 72nd Leg., ch. 203, Sec. 2.43; Acts 1991, 72nd Leg., ch. 554, Sec. 14, eff. Sept. 1, 1991; Acts 1997, 75th Leg., ch. 864, Sec. 38, eff. Sept. 1, 1997.

Sec. 33.055. HOURS OF SERVICE AT CENTRAL COUNTING STATION.

(a) A watcher serving at a central counting station may be present at any time the station is open for the purpose of processing or preparing to process election results and until the election officers complete their duties at the station. The watcher may serve during the hours the watcher chooses, except as provided by Subsection (b).

(b) A watcher may not leave during voting hours on election day without the presiding judge's permission if the counting of

ballots at the central counting station has begun.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1997, 75th Leg., ch. 864, Sec. 39, eff. Sept. 1, 1997.

Sec. 33.056. OBSERVING ACTIVITY GENERALLY. (a) Except as provided by Section 33.057, a watcher is entitled to observe any activity conducted at the location at which the watcher is serving.

A watcher is entitled to sit or stand conveniently near the election officers conducting the observed activity.

(b) A watcher is entitled to sit or stand near enough to the member of a counting team who is announcing the votes to verify that the ballots are read correctly or to a member who is tallying the votes to verify that they are tallied correctly.

(c) A watcher is entitled to inspect the returns and other records prepared by the election officers at the location at which the watcher is serving.

(d) A watcher may not be prohibited from making written notes while on duty. Before permitting a watcher who made written notes at a precinct polling place to leave while the polls are open, the presiding officer may require the watcher to leave the notes with another person on duty at the polling place, selected by the watcher, for retention until the watcher returns to duty.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

Sec. 33.057. OBSERVING PREPARATION OF VOTER'S BALLOT. (a) A watcher is entitled to be present at the voting station when a voter is being assisted by an election officer, and the watcher is entitled to examine the ballot before it is deposited in the ballot box to determine whether it is prepared in accordance with the voter's wishes.

(b) A watcher may not be present at the voting station when a voter is preparing the voter's ballot or is being assisted by a

person of the voter's choice.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1997, 75th Leg., ch. 864, Sec. 40, eff. Sept. 1, 1997.

Sec. 33.058. RESTRICTIONS ON WATCHER'S ACTIVITIES.

(a) While on duty, a watcher may not:

(1) converse with an election officer regarding the election, except to call attention to an irregularity or violation of law;

(2) converse with a voter; or

(3) communicate in any manner with a voter regarding the election.

(b) A watcher may call the attention of an election officer to any occurrence that the watcher believes to be an irregularity or violation of law and may discuss the matter with the officer. An officer may refer the watcher to the presiding officer at any point in the discussion. In that case, the watcher may not discuss the occurrence further with the subordinate officer unless the presiding officer invites the discussion.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

Sec. 33.059. OBSERVING SECURING OF VOTING SYSTEM EQUIPMENT BEFORE ELECTION. (a) A watcher appointed to serve at a polling

place in an election using voting system equipment that is required to be delivered to the polling place in a secured condition is entitled to observe the inspection and securing of the equipment in the jurisdiction of the authority responsible for distributing election supplies to the polling place at which the watcher is appointed to serve.

(b) On request of a watcher, the authority responsible for distributing the election supplies shall inform the watcher of the place, date, and hour of the inspection. A watcher shall be

admitted on presentation of a certificate of appointment. The person admitting the watcher shall return the certificate to the watcher.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

Sec. 33.060. OBSERVING DELIVERY OF ELECTION RECORDS. (a) On request of a watcher, an election officer who delivers election records from a precinct polling place, an early voting polling place, a meeting place for an early voting ballot board, or a central counting station shall permit the watcher appointed to serve at that location to accompany the officer in making the delivery.

(b) If delivery is made in a vehicle, an election officer complies with this section if the officer permits the watcher to follow in a different vehicle and drives in a manner that enables the watcher to keep the vehicle in sight.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1991, 72nd Leg., ch. 203, Sec. 2.44; Acts 1991, 72nd Leg., ch. 554, Sec. 15, eff. Sept. 1, 1991.

Sec. 33.061. UNLAWFULLY OBSTRUCTING WATCHER. (a) A person commits an offense if the person serves in an official capacity at a location at which the presence of watchers is authorized and knowingly prevents a watcher from observing an activity the watcher is entitled to observe.

(b) An offense under this section is a Class A misdemeanor.
Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.