

BILL ANALYSIS

C.S.H.B. 2465
By: Denny
Elections
Committee Report (Substituted)

BACKGROUND AND PURPOSE

The Texas Election Code currently sets forth provisions relating to the process by which the Secretary of State approves voting systems for use in the state. This statutory process includes an examination of each proposed voting system by a group of appointed examiners. Currently, the examinations of the voting systems are not subject to the Open Meetings Act because the examiners are not a governmental body and because the meetings can include detailed discussion of the machines, which may reveal trade secrets. In spite of this, some assert that the process of voting system certification should be more transparent and open to the public. CSHB 2465 attempts to do this by including a public hearing on each proposed voting system before the Secretary of State makes a decision on the system's certification for use.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is expressly granted to the Secretary of State in SECTION 1 (Sec. 122.0371, Election Code) of this bill.

ANALYSIS

CSHB 2465 amends the Election Code by requiring the secretary of state to conduct a public hearing relating to the approval of voting systems or voting system equipment (systems or equipment) being considered by the secretary for approval for use in the state. The bill provides:

- that the hearing must be held after the delivery of the examiners' reports and before the secretary makes a final determination on the system or equipment; and
- that notice of the hearing must be given in the manner provided by provisions relating to open meetings.

The bill authorizes those individuals attending the hearing to express their views orally, in writing, or both. The bill requires the hearing to be conducted in accordance with rules adopted by the secretary of state.

The bill provides that the provisions relating to the public hearing apply to initial certification of systems or equipment; approval of modification in design of approved systems or equipment, if an examination of the modified design is conducted; and to reexaminations of systems or equipment.

The bill provides that these provisions apply only to approval of voting systems or equipment occurring on or after September 1, 2005, and that all examinations conducted prior to this date are validated as of the dates of the acts or proceedings occurred.

EFFECTIVE DATE

September 1, 2005.

COMPARISON OF ORIGINAL TO SUBSTITUTE

The substitute modifies the original by conforming to Legislative Council drafting format. The substitute adds the provisions relating to the validation of prior examinations. The substitute also

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adds that the new requirements apply only to the approval of voting systems or equipment occurring on or after the effective date of the Act.