

BILL ANALYSIS

C.S.H.B. 3208
By: Zedler
Elections
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Currently, the Texas Attorney General only has the authority to investigate alleged criminal election violations if the election covers more than one county or if the allegations arise from a complaint forwarded to the Attorney General from the Secretary of State. In other instances, local county and district attorneys have the authority to investigate election fraud. Generally, these matters are not investigated or brought to trial. Some claim that these local prosecuting attorneys lack sufficient resources to adequately build a case. Others potentially suffer political consequences if they attempt to proceed with an investigation or pursue prosecution. Whatever the reason, action is often not taken by local officials to preserve the integrity of an election where instances of wrongdoing are discovered. In order to better prevent and prosecute criminal conduct in connection with an election, CSHB 3208 gives the Attorney General greater responsibility and requires prompt investigation by prosecuting attorneys.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

CSHB 3208 amends the Election Code by requiring voter registrars to deliver all affidavits relating to occurrences of unregistered voters voting to the attorney general, in addition to the county or district attorney. The bill also authorizes voters in a territory to present affidavits alleging criminal conduct to the attorney general, and requires the officer to whom an affidavit is presented to investigate the allegations. The bill removes provisions restricting attorney general investigations to affidavits in connection with elections that cover more than one territory.

The bill requires the prosecuting officer, on receipt of an affidavit from a voter registrar or a complaint from the secretary of state, to promptly investigate the matter or allegations, rather than only requiring them to investigate the matter or allegations. The bill requires the prosecuting attorney having jurisdiction who determines, following an investigation, that criminal conduct has occurred to take necessary actions to prevent criminal conduct in connection with the election.

EFFECTIVE DATE

Upon passage, or if the Act does not receive a vote of two-thirds of the members elected to each house, September 1, 2005.

COMPARISON OF ORIGINAL TO SUBSTITUTE

The substitute modifies the original by conforming the language to Legislative Council drafting style.