

BILL ANALYSIS

Senate Research Center

S.B. 308
By: Duncan
State Affairs
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Enrolled

AUTHOR'S/SPONSOR'S STATEMENT OF INTENT

Under the Emergency Interim Legislative Succession Act, the executive director of the Employees Retirement System (ERS) submits a list to the lieutenant governor or speaker of the house for each senatorial or house district which includes the names of members or retirees of ERS who have previously served in the Senate/House. If the executive director fails to provide seven names, the secretary of the senate or the chief clerk of the house shall submit to each presiding officer the names of the former members living in that district. The presiding officer is then directed to ask each designee if he/she will serve if called upon. If the individual agrees, he/she must submit a written acceptance to the presiding officer. Both the list and acceptance are file with the secretary of state and updated annually.

The Act also provides that each member designate individuals. This list is to be used if there are no designees on the list prepared by the presiding officers or if those designees are unavailable. The alternative list and acceptance of the alternative designees are also filed with the secretary of state and are to be updated annually.

The secretary of state currently does not have any names or acceptances on file.

The current process for appointing a temporary successor for a legislative member who is unavailable because of a terrorist attack is a complicated procedure. ("Attack" and "unavailable" are defined in Section 304.002 (Definitions), Government Code). S.B. 308 streamlines the process, while preserving the original intent of the law, under which a temporary successor can be named for a member of the legislature if the member is unavailable because of a terrorist attack.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 304.004, Government Code, as follows:

Sec. 304.004. New heading: DESIGNATION OF EMERGENCY INTERIM SUCCESSORS. Requires each legislator to designate not less than three nor more than seven individuals to serve as emergency interim successors (successors) if the legislator is certified to be unavailable to serve as provided by this chapter. Deletes existing text referring to a list prepared under this section and requiring an individual to be from the same political party as the legislator.

(b) Requires a designation to include the name and address of the designee to be effective.

(c) Requires a legislator, as soon as practicable after taking the oath for his or her term, rather than each legislator, to file, rather than submit, a list of the legislator's designees who have accepted the designation, ranked in order of succession, together with the designee's written acceptance with the secretary of the senate or the chief clerk of the house of representatives, as applicable. Requires that officer

to promptly deliver a certified copy of the list and of each acceptance to the secretary of state.

(d) Requires each legislator, at least annually, rather than annually, to review the most recent list of successors to the legislator's position to ensure that there are at least three qualified successors on the list. Requires each legislator to make necessary, and authorizes other appropriate, revisions to the list. Requires a revision designating a new successor to be accompanied by the written acceptance of the designee. Requires certain officers to promptly deliver a certified copy of each revision and of any accompanying acceptance to the secretary of state. Deletes existing text referring to the lists submitted by the legislator to the secretary of state.

(e) Authorizes, rather than requires, the lieutenant governor or speaker of the house to designate not more than seven individuals to serve as successors for a legislator if at any time that legislator has not designated, rather than fails to designate, successors. Deletes existing text referring to less than three individuals. Requires each designated individual to meet the applicable age and residence requirements and to submit a written acceptance of the designation. Requires the lieutenant governor or speaker to file the list and designee acceptances with the secretary of the senate or chief clerk of the house, as applicable. Requires that officer to deliver a certified copy of the list and of each acceptance to the secretary of state. Authorizes the legislator, at any time, to make revisions to the list filed under the subsection or to file a superseding list of designees. Makes conforming changes.

SECTION 2. Amends Section 304.005, Government Code, as follows:

Sec. 304.005. New heading: **WHEN DESIGNATION OR REVISION TAKES EFFECT.** (a) Provides that each designation of a successor becomes effective when the individual making the designation files the designation and the designee's acceptance with the appropriate house or senate officer. Makes conforming changes.

(b) Includes that the removal of a successor from the list becomes effective when the individual authorized to make that change files that information with the appropriate house or senate officer, rather than the secretary of state.

(c) Provides that information filed under this chapter, rather than section, is public information except that the home address and telephone number of the designee may be disclosed only if the designee, in a signed writing filed with the secretary of the senate or chief clerk of the house, as applicable, specifically states that the information may be disclosed.

(d) Provides that a certified copy of a list of successors or a revision of a list delivered to the secretary of state under this chapter is for informational purposes only unless the lieutenant governor or speaker of the house certifies to the secretary of state that the applicable records have been lost, destroyed, or become unavailable in another manner, in which event the certified records delivered to the secretary of state are treated as if they are the original records.

SECTION 3. Amends Section 304.008, Government Code, as follows:

Sec. 304.008. **ASSUMPTION OF POWERS AND DUTIES.** (a) Requires the lieutenant governor or speaker, as applicable, to certify to the secretary of state that the legislator is unavailable if the governor has declared an emergency due to enemy attack or the immediate threat of enemy attack and the lieutenant governor or speaker of the house, as applicable, determines that a legislator is unavailable to serve when the legislature has convened or will convene. Authorizes a majority of the members of that house who are present to determine that a member of that house who is not present is unavailable and certify that determination to the secretary of state, if the governor has declared an emergency due to enemy attack or the immediate threat of enemy attack and at the time

and place the legislature is scheduled to convene the lieutenant governor or speaker is absent from the applicable house. Makes a conforming change.

(b) Requires the secretary of state to notify the legislator's highest ordered successor that the successor is entitled to exercise the powers and duties of a legislator who is unavailable. Requires the secretary of state to inform the, rather than each, successor of the date, time, and place at which the legislator is meeting or will meet, as soon as that is known. Deletes the requirement that the secretary of state inform each successor of the date at which each must appear. Requires the secretary of state, at the request of the lieutenant governor or speaker of the house, if the successor declines to serve or does not appear and begin to serve within a reasonable time, to notify the successor next in order of succession who is available that the successor is entitled to exercise the powers and duties of the legislator who is unavailable.

(c) Redesignated from existing Subsection (b). Refers to the individual rather than he. Includes that the successor is prohibited to make revisions to a designation, rather than that a successor may not designate emergency interim successors for himself.

(d) Redesignated from existing Subsection (c). Includes that a successor exercises those powers and assumes those duties until notified by the secretary of state that a successor, higher in order of succession for the same position, or a legislator elected to the same position and legally qualified can act.

(e) Requires that any dispute as to the qualifications of an individual to exercise the powers and assume the duties of a legislator under this chapter is to be determined by the applicable house of the legislature.

SECTION 4. Amends Section 304.009(c), Government Code, to provide that Section 812.203(a) (regarding suspended annuity payments), rather than 812.203(d), does not apply to an individual serving as an emergency interim successor under this chapter.

SECTION 5. Repealer: Section 304.003 (Designation of Emergency Interim Successors by Employees Retirement System of Texas), Government Code.

SECTION 6. (a) Requires each member of the legislature in office on the effective date of this Act to file a list designating successors in accordance with Chapter 304, Government Code, as amended by this Act, not later than January 1, 2006, or as soon thereafter as practicable.

(b) Provides that a successor designation made prior to the effective date of this Act that is in effect on the effective date of this Act remains in effect on and after the effective date of the this act until the earlier of certain events occurs.

(c) Provides that Subsection (b) does not prohibit the lieutenant governor or speaker of the house of representatives from acting under Section 304.004(e), as amended by this Act, when appropriate.

SECTION 7. Effective date: September 1, 2005.