Senate Research Center

C.S.S.B. 1646
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State Affairs
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Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Every election cycle presents new situations that often result in the need to clarify or adjust state election laws to allow local jurisdictions more flexibility and direction in the election process. Additionally, the implementation of the federal Help America Vote Act has made elections increasingly complex, both for those who administer them and for voters.

C.S.S.B. 1646 makes various changes to the Election Code with regard to state and local election processes to address frequently asked questions to and from election officials, resulting in more efficient elections.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the secretary of state in SECTION 2 (Section 2.053, Election Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 2.051(a), Election Code, as follows:

(a) Provides that, for purposes of this section, a special election of a political subdivision is considered to be a separate election with a separate ballot from a general election for officers of the political subdivision held at the same time as the special election or another special election of the political subdivision held at the same time as the special election. Deletes existing text requiring no proposition to appear on the ballot in order for this subchapter (Election of Unopposed Candidate) to apply. Makes nonsubstantive changes.

SECTION 2. Amends Section 2.053, Election Code, as follows:

Sec. 2.053. ACTION ON CERTIFICATION. (a) Requires that, if no election is to be held on election day by the political subdivision, a copy of the order or ordinance declaring each unopposed candidate elected to the office be posted on election day at each polling place used or that would have been used in the election.

(b) Deletes existing text requiring a copy of the order or ordinance declaring each unopposed candidate elected to the office to be posted on election day at each polling place used or that would have been used in the election.

(c) Requires that the ballots used at a separate election held at the same time as an election that would have been held if the candidates were not declared elected under this section include the offices and names of the candidates declared elected under this section separately after the measures or contested races in the separate election under a certain heading. Requires that the candidates be grouped in the same relative order prescribed for the ballot generally. Provides that no votes are cast in connection with the candidates.

(d) Authorizes the secretary of state by rule to prescribed any additional procedures necessary to accommodate a particular voting system or ballot style and to facilitate the efficient and cost-effective implementation of this section.

(e) Redesignated from existing Subsection (c).

SECTION 3. Amends Section 2.054(a), Election Code, to provide that, in an election that may be subject to this subchapter (Election of Unopposed Candidate), a person commits an offense if, by intimidation or other means of coercion, the person influences or attempts to influence a person to not file an application for a place on the ballot or a declaration of write-in candidacy or if, by intimidation or other means of coercion, the person influences or attempts to influence a person to withdraw as a candidate. Makes nonsubstantive changes.

SECTION 4. Amends Chapter 2, Election Code, by adding Subchapter D, as follows:

SUBCHAPTER D. CANCELLATION OF ELECTIONS

Sec. 2.081. CANCELLATION OF MOOT MEASURE. (a) Authorizes an authority that orders an election on a measure and determines that the action to be authorized by the voters is prohibited from being taken to declare the measure moot and remove the measure from the ballot, regardless of the outcome of the election.

(b) Requires the authority holding the election, if a measure is declared moot under this section and is removed from the ballot, to post notice of the declaration during early voting by personal appearance and on election day, at each polling place that would have been used for the election on the measure.

Sec. 2.082. SPECIFIC AUTHORITY FOR CANCELLATION REQUIRED. Authorizes an authority that orders an election to cancel the election only if the power to cancel the election is specifically provided by statute.

SECTION 5. Amends Section 4.004(a), Election Code, to require that, except as provided by Subsection (c), the notice of a general or special election state the location of each early voting polling place.

SECTION 6. Amends Section 16.031(a), Election Code, to require the registrar to cancel a voter's registration immediately on receipt of notice from the early voting clerk under Section 101.0041 that a federal postcard application submitted by an applicant states a voting residence address located outside the registrar's county. Makes nonsubstantive changes.

SECTION 7. Amends Section 32.002, Election Code, by amending Subsection (c) and adding Subsection (g), as follows:

(c) Requires the county chair of a political party whose candidate for governor received the highest or second highest number of votes in the county cast for a candidate nominated by a political party in the most recent gubernatorial general election, before July of each year, to submit in writing to the commissioners court a list of names of persons in order of preference for each precinct who are eligible for appointment as an election judge.

(g) Requires the number of votes received in the precinct by a political party's gubernatorial candidate, if, since the most recent gubernatorial general election, the boundaries of a precinct have been changed, to be estimated as provided by Section 141.070 (Estimating Gubernatorial Vote for Territory With Changed Boundary) for the purpose of determining which political party's candidate for governor received the highest or second highest number of votes in the county.

SECTION 8. Amends Section 32.034, Election Code, by amending Subsection (b) and adding Subsection (f), as follows:

(b) Authorizes the county chair of a political party whose candidate for governor received the highest or second highest number of votes in the county cast for a candidate nominated by a political party in the most recent gubernatorial general election, to submit, not later than the 25th day before a general election or the 10th day before a

special election to which Subsection (a) applies, to a presiding judge a list containing the names of at least two persons who are eligible for appointment as clerk.

(f) Requires that the number of votes received in the precinct by a political party's gubernatorial candidate, if, since the most recent gubernatorial general election, the boundaries of a precinct have been changed, be estimated as provided by Section 141.070 for the purpose of determining which political party's candidate for governor received the highest or second highest number of votes in the county.

SECTION 9. Amends Section 33.058(a), Election Code, to prohibit a person appointed to observe the conduct of an election on behalf of a candidate, a political party, or the proponents or opponents of a measure (watcher), while on duty, from using a mobile telephone or using any mechanical or electronic means of recording images or sound. Makes nonsubstantive changes.

SECTION 10. Amends Section 41.0052(a), Election Code, authorize the governing body of a political subdivision other than a county, not later than December 31, 2007, rather than 2005, to change the date on which it holds its general election for officers to another authorized uniform election date.

SECTION 11. Amends Section 85.001(e), Election Code, to provide that, for any resulting runoff election from an election held on the uniform election date in May, the period for early voting by personal appearance begins on the 12th day before election day and continues through the fourth day before election day.

SECTION 12. Amends Section 86.006(f), Election Code, to provide an exception for certain persons to the application of, rather than an affirmative defense to prosecution under, this subsection (providing that a person commits an offense if the person knowingly possesses an official ballot or official carrier envelope provided under this code or another).

SECTION 13. Amends Chapter 101, Election Code, by adding Section 101.0041, as follows:

Sec. 101.0041. ACTION BY EARLY VOTING CLERK ON CERTAIN APPLICATIONS. Requires the early voting clerk to notify the voter registrar of a federal postcard application submitted by an applicant that states a voting residence address located outside the registrar's county.

SECTION 14. Amends Section 123.035, Election Code, by adding Subsection (a-1), to prohibit a contract for the acquisition of direct recording electronic voting machine equipment from prohibiting the transportation of the equipment across county lines, and to provide that a contract provision that violates this subsection is void.

SECTION 15. Amends Subchapter A, Chapter 125, Election Code, by adding Section 125.010, as follows:

Sec. 125.010. PRESENCE OF VOTING SYSTEM TECHNICIAN AUTHORIZED. Defines "voting system technician." Authorizes a voting system technician, on the request of the authority holding the election, to be present at a polling place, a meeting of the early voting ballot board, or a central counting station for the purpose of repairing, assembling, maintaining, or operating voting system equipment.

SECTION 16. Amends Subchapter B, Chapter 141, Election Code, by adding Section 141.040, as follows:

Sec. 141.040. NOTICE OF DEADLINES. Requires the authority with whom the application is required to be filed, not later than the 30th day before the first day on which a candidate is authorized to file an application for a place on the ballot under this subchapter (Application for Place on Ballot), to post notice of the dates of the filing period in a public place in a building in which the authority has an office.

SECTION 17. Reenacts Section 146.0301(a), Election Code, as amended by Chapters 1107 and 1109, Acts of the 79th Legislature, Regular Session, 2005, to prohibit a write-in candidate from withdrawing from the election after the 67th day before election day.

SECTION 18. Amends Section 201.054(a), Election Code, to require that a candidate application for a place on a special election ballot be filed not later than 5:00 p.m. of the 62nd, rather than the 67th, day before election day if election day is on or after the 70th day after the date the election is ordered.

SECTION 19. Amends Sections 213.013(b)-(i), Election Code, as follows:

> (b) Entitles, in a recount of an election on an office, each candidate for the office to be present at the recount and have watchers, rather than representatives, present in the number corresponding to the number of counting teams designated for the recount. Makes a conforming change.

> (c)-(i) Makes conforming changes.

SECTION 20. Amends Sections 271.002(a), (b), and (c), Election Code, as follows:

> (a) Authorizes the governing bodies of the political subdivisions, if the elections ordered by the authorities of two or more subdivisions are to be held on the same day in all or part of the same county, rather than territory, to enter into an agreement to hold the elections jointly in the election precincts that can be served by common polling places, subject to Section 271.003 (Location of Common Polling Place).

> (b) and (c) Makes conforming changes.

SECTION 21. Repealer: Section 61.012(b) (regarding access by persons with disabilities), Election Code.

SECTION 22. (a) Makes application of this Act prospective, except as otherwise provided by this Act.

> (b) Authorizes the governing body of a political subdivision other than a county to change an election date as authorized by Section 41.0052(a), as amended by this Act, at any time on or after September 1, 2007.

> (c) Makes application of Section 86.006(f), Election Code, as amended by this Act, prospective.

> (d) Makes application of Section 123.035(a-1), Election Code, prospective.

SECTION 23. Effective date: September 1, 2007.