

## **BILL ANALYSIS**

C.S.S.B. 1776  
By: Duncan  
Elections  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

Elections in this state conducted after January 1, 2006 are required to comply with the federal Help America Vote Act (HAVA) provisions relating to electronic voting systems. This is intended to provide accessible voting equipment to disabled persons so that those persons are able to vote with little or no assistance, thereby maintaining those persons' ability to cast a secret ballot. Additionally, the voting systems are required serve as a "reasonable accommodation" for disabled voters consistent with the federal Americans with Disabilities Act. The state's implementation of HAVA has included grants to counties to purchase the implementation of electronic voting systems of their choice. However, local governments and other political subdivisions that must use these systems must either lease the systems from their respective county or enter into an election services contract by which the county clerk or election administrator conducts the election using the county's systems. Due to costs associated with the use of the voting systems, the costs of elections to political subdivisions have risen dramatically, especially in small counties.

C.S.S.B. 1776 amends the state's requirements for using electronic voting systems in elections that do not have a federal candidate on the ballot. This bill sets up a tiered system which reduces the burden on small counties and political subdivisions while maintaining the ability of disabled Texans to cast a secret ballot.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that rulemaking authority is expressly granted to the Secretary of State of Texas in SECTION 3 of this bill.

### **ANALYSIS**

SECTION 1. LEGISLATIVE INTENT. Provides that it is the intent of the legislature that in creating the formula for the finding of an undue burden in Section 61.013(c), Election Code, as added by this Act, the legislature took into account the size of the political subdivision holding the election, which affects the amount of available funds and election workforce, and the costs of voting machine systems compared to previous accommodations for voters with disabilities.

SECTION 2. AMENDMENT. Amends Section 61.012(a), Election Code, to require each polling place, except as provided by Section 61.013, to provide at least one voting station that complies with the requirements for accessibility under 42 U.S.C. Section 15481(a)(3) and its subsequent amendments.

SECTION 3. AMENDMENT. Amends Subchapter A, Chapter 61, Election Code, by adding Section 61.013, as follows:

Sec. 61.013. ACCESS BY PERSONS WITH DISABILITIES: ELECTIONS OF CERTAIN POLITICAL SUBDIVISIONS. (a) Provides that certain political subdivisions, for an election other than an election of a political subdivision that is held jointly with another election in which a federal office appears on the ballot, are not required to meet the requirements of Section 61.012(a)(1)(C).

(b) Requires a voter with a disability that desires a reasonable accommodation to vote in an election of a county described by Subsection (a)(1) or a political subdivision located in that county to make a request for the accommodation with

the early voting clerk of the county or political subdivision not later than the 21st day before the date of the election. Requires the early voting clerk, on receipt of the request, to make a reasonable accommodation to allow the voter to cast a vote.

(c) Authorizes a county or political subdivision to make a showing of undue burden under Subsection (a)(4)(A) by filing an application with the secretary of state not later than the 90th day before the date of the election that states the reasons that compliance would constitute an undue burden. Authorizes a showing of an undue burden to be satisfied by proof that the election costs associated with compliance with Section 61.012(a)(1)(C) constitute a significant expense for the county or political subdivision and reflect an increase of at least 25 percent in the costs of holding an election as compared to the costs of the last general election held by the county or political subdivision before January 1, 2006. Requires the secretary of state, not later than the 20th day after the date of receiving an application under this section, to determine whether compliance with Section 61.012(a)(1)(C) is an undue burden for the county or political subdivision.

(d) Requires a county or political subdivision that intends to use this section to provide fewer voting stations that meet the requirements for accessibility under 42 U.S.C. Section 15481(a)(3) than required by Section 61.012(a)(1)(C) to provide notice to the secretary of state of that intent not later than the 90th day before the date of the election and, for a county described by Subsection (a)(2), (3), or (4), or a political subdivision located in such a county, to publish notice of the location of each voting station that meets the requirements for accessibility under 42 U.S.C. Section 15481(a)(3) in a newspaper of general circulation in the county or political subdivision not later than the 15th day before the date of the start of the period of early voting by personal appearance.

(e) Provides that, for purposes of this section, if a political subdivision is located in more than one county may choose to be considered located in the county that contains the greatest number of registered voters of the political subdivision or for each portion of the political subdivision located in a different county, to be considered a separate political subdivision.

(f) Requires the secretary of state of Texas to prescribe procedures and to adopt rules as necessary to implement this section.

SECTION 4. REPEALER. Repealer: Section 61.012(b) (regarding voting access for persons with disabilities), Election Code.

SECTION 5. EFFECTIVE DATE. Effective date: September 1, 2007.

#### **EFFECTIVE DATE**

September 1, 2007.

#### **COMPARISON OF ORIGINAL TO SUBSTITUTE**

C.S.S.B. 1776 differs from the original in SECTION 3 by providing that if a political subdivision is located in more than one county it may choose to be considered located in the county that contains the greatest number of registered voters of the political subdivision or, for each portion of the political subdivision located in a different county, to be considered a separate political subdivision.

S.B. 1776 provides that if a political subdivision is located in more than one but fewer than four counties, the political subdivision is considered located in the county that contains the greatest number of registered voters of the political subdivision and if a political subdivision is located in four or more counties, each portion of the political subdivision located in a different county is considered a separate political subdivision.

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