

BILL ANALYSIS

S.B. 362
By: Fraser
Elections
Committee Report (Unamended)

BACKGROUND AND PURPOSE

Under current law, to vote a regular ballot a voter is required only to present a voter registration certificate to an election officer. Although this requirement attempts to ensure that only registered voters receive a regular ballot on election day, it leaves a potential loophole for fraud. Individuals are not required to show proof of identification to register to vote, making it possible for an unscrupulous individual to submit several falsified voter registration applications and receive the voter registration certificates issued as a result of those applications. The current process provides no statutory standards for verifying the identity of individuals at the polling place when they present a voter registration certificate.

S.B. 362 modifies provisions requiring a voter to present proof of identification when offering to vote.

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

S.B. 362 amends the Election Code to require the voter registrar of each county to provide notice of the identification requirements for voting prescribed by provisions relating to the acceptance of a voter for voting and a detailed description of those requirements with each voter registration certificate or renewal registration certificate issued. The bill requires the secretary of state to prescribe the wording of the notice to be provided on the certificate. The bill makes these provisions effective September 1, 2009.

S.B. 362 requires the secretary of state and the voter registrar of each county that maintains a website to provide notice of the identification requirements for voting on each entity's respective website and requires the secretary of state to prescribe the wording of that notice. The bill requires the secretary of state, in cooperation with the appropriate nonprofit organizations as determined by the secretary of state and with each party whose nominee for governor in the most recent gubernatorial general election received 20 percent or more of the total number of votes received by all candidates for governor in the election, to establish a statewide effort to educate voters regarding the identification requirements for voting. The bill authorizes the secretary of state to use any available funds, including federal funds, to implement these provisions. The bill makes these provisions effective September 1, 2009.

S.B. 362 requires the training standards for election judges adopted by the secretary of state to include provisions on the acceptance and handling of the identification presented by a voter to an election officer in accordance with the regular procedure for accepting a voter and requires each election clerk to complete that part of the training program. The bill makes these provisions effective September 1, 2009.

S.B. 362 requires the presiding judge of an election precinct to post notice with a list of the acceptable forms of photographic and nonphotographic identification in a prominent place on the outside of each polling location and requires that information to be printed using a font that is at least 24-point.

S.B. 362 requires a voter, on offering to vote, to present to an election officer at the polling place either one acceptable form of photographic identification or two acceptable forms of nonphotographic identification, rather than only the voter's voter registration certificate, and makes conforming changes. The bill makes conforming changes to provisions relating to a voter's statement of residence, a voter with the correct certificate who is not on the precinct list of registered voters, a voter with the incorrect certificate who is not on the precinct list of registered voters, and the regular procedures for accepting voters.

S.B. 362 specifies that the following documentation is an acceptable form of photographic identification for voting:

- a driver's license or personal identification card issued to the person by the Department of Public Safety (DPS) that has not expired or that expired no earlier than two years before the date of presentation;
- a United States military identification card that contains the person's photograph;
- a United States citizenship certificate issued to the person that contains the person's photograph;
- a United States passport issued to the person;
- a license to carry a concealed handgun issued to the person by the DPS; or
- a valid identification card that contains the person's photograph and is issued by an agency or institution of the federal government or of an agency, institution, or political subdivision of Texas.

S.B. 362 adds the following documentation as acceptable nonphotographic proof of identification for voting:

- the voter's voter registration certificate;
- an original or certified copy of the person's marriage license or divorce decree;
- court records of the person's adoption, name change, or sex change;
- an identification card issued to the person by a governmental entity of Texas or the United States for the purpose of obtaining public benefits, including veteran's benefits, Medicaid, or Medicare;
- a temporary driving permit issued to the person by DPS;
- a pilot's license issued to the person by the Federal Aviation Administration or another authorized agency of the United States;
- a library card that contains the person's name issued to the person by a public library located in this state; or
- a hunting or fishing license issued to a person by the Parks and Wildlife Department.

S.B. 362 amends the provision designating a copy of a birth certificate or other document confirming birth that is admissible in a court of law and establishes the person's identity as a form of nonphotographic proof of identification to specify that such a document is required to be certified.

S.B. 362 removes the following documentation as acceptable proof of identification for voting:

- a document similar to a driver's license or personal identification card issued to the person by an agency of another state, regardless of whether the license or card has expired;
- a non-specified form of identification containing the person's photograph that establishes the person's identity; and
- any other form of identification prescribed by the secretary of state.

S.B. 362 authorizes a voter, if the identification requirements are not met, to be accepted for provisional voting only under the provisions relating to the execution of an affidavit to cast a provisional ballot. The bill requires an election officer to inform a voter that is not accepted for voting because of failing to present the required identification of the voter's right to cast a provisional ballot under those provisions.

S.B. 362 amends the Transportation Code to prohibit DPS from collecting a fee for a personal identification certificate issued to a person who states that the person is obtaining the personal identification certificate for the sole purpose of satisfying requirements for a photographic identification for voting, who is a registered voter in Texas and presents a valid voter registration certificate or who is eligible for voter registration and submits a voter registration application to the department.

S.B. 362 requires the secretary of state, as soon as practicable after September 1, 2009, to adopt the training standards and develop the training materials required to implement the bill's provisions relating to training. The bill requires the county clerk of each county, as soon as practicable after September 1, 2009, to provide a session of training using the standards adopted and materials developed by the secretary of state. The bill makes these provisions effective September 1, 2009.

S.B. 362 repeals the following sections of the Election Code:

- Section 63.008, relating to a voter without a voter registration certificate who is on the precinct list of registered voters
- Section 63.009, relating to a voter without a voter registration certificate who is not on the precinct list of registered voters

EFFECTIVE DATE

Except as otherwise provided, January 1, 2010.