

## **BILL ANALYSIS**

Senate Research Center  
81R3524 JRJ-D

S.B. 362  
By: Fraser, et al.  
Senate Committee of the Whole  
3/3/2009  
As Filed

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

Under current law, to vote a regular ballot, voters are only required to present a voter registration certificate to a poll worker. While this practice 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 identification to register to vote. Because of this, it is possible for an unscrupulous individual to submit several falsified voter registration applications and to receive the voter registration certificates for the "fake" individuals. With the current process, no statutory standards exist to verify the identity of individuals at the polling place when they present a voter registration certificate.

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

### **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 Subchapter A, Chapter 15, Election Code, by adding Section 15.005, as follows:

Sec. 15.005. NOTICE OF IDENTIFICATION REQUIREMENTS. (a) Requires the voter registrar of each county to provide notice of the identification requirements for voting prescribed by Chapter 63 (Accepting Voter) and a detailed description of those requirements with each voter registration certificate issued under Section 13.142 (Initial Registration Certificate) or renewal registration certificate issued under Section 14.001 (Renewal Registration Certificate).

(b) Requires the secretary of state to prescribe the wording of the notice to be included on the certificate under this section.

SECTION 2. Amends Subchapter A, Chapter 31, Election Code, by adding Section 31.012, as follows:

Sec. 31.012. VOTER IDENTIFICATION EDUCATION. 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 prescribed by Chapter 63 on each entity's respective website. Requires the secretary of state to prescribe the wording of the notice to be included on the websites.

SECTION 3. Amends Section 32.111, Election Code, by adding Subsection (c), to require that the training standards adopted under Subsection (a) (relating to certain actions required by the secretary of state regarding training standards and materials for election judges) include provisions on the acceptance and handling of the identification presented by a voter to an election officer under Section 63.001 (Regular Procedure for Accepting Voter).

SECTION 4. Amends Section 32.114(a), Election Code, to require each election clerk to complete the part of the training program relating to the acceptance and handling of the identification presented by a voter to an election officer under Section 63.001.

SECTION 5. Amends Chapter 62, Election Code, by adding Section 62.016, as follows:

Sec. 62.016. NOTICE OF ACCEPTABLE IDENTIFICATION OUTSIDE POLLING PLACES. Requires the presiding judge to post in a prominent place on the outside of each polling location a list of the acceptable forms of photographic and nonphotographic identification. Requires that the notice and list be printed using a font that is at least 24-point.

SECTION 6. Amends Section 63.001, Election Code, by amending Subsections (b), (c), (d), and (f) and adding Subsection (g), as follows:

(b) Requires a voter, on offering to vote, to present to an election officer at the polling place, the voter's voter registration certificate and either one form of identification listed in Section 63.0101(a), or two different forms of identification listed in Section 63.0101(b). Makes a nonsubstantive change.

(c) Requires an election officer, on presentation of the documentation required by Subsection (b), rather than a registration certificate, to determine whether the voter's name on the registration certificate is on the list of registered voters for the precinct.

(d) Requires that the voter be accepted for voting if the voter's name is on the precinct list of registered voters and the voter's identity can be verified from the documentation presented under Subsection (b).

(f) Requires the election officer, after determining whether to accept the voter, to return the voter's documentation, rather than registration certificate, to the voter.

(g) Authorizes the voter, if the requirements for identification prescribed by Subsection (b) are not met, to be accepted for provisional voting only under Section 63.011 (Provisional Voting). Requires an election officer to inform a voter who is not accepted for voting under this section of the voter's right to cast a provisional ballot under Section 63.011.

SECTION 7. Amends Section 63.006(a), Election Code, to require that a voter who, when offering to vote, presents a voter registration certificate indicating that the voter is currently registered in the precinct in which the voter is offering to vote, but whose name is not on the precinct list of registered voters, be accepted for voting if the voter's identity can be verified from the documentation presented under Section 63.001(b).

SECTION 8. Amends Section 63.007(a), Election Code, to require that a voter who, when offering to vote, presents a voter registration certificate indicating that the voter is currently registered in a different precinct from the one in which the voter is offering to vote, and whose name is not on the precinct list of registered voters, be accepted for voting if the voter's identity can be verified from the documentation presented under Section 63.001(b) and the voter executes an affidavit stating certain information.

SECTION 9. Amends Section 63.008(a), Election Code, to require that a voter who does not present a voter registration certificate when offering to vote, but whose name is on the list of registered voters for the precinct in which the voter is offering to vote, be accepted for voting if the voter executes an affidavit stating that the voter does not have the voter's voter registration certificate in the voter's possession at the polling place at the time of offering to vote and the voter's identity can be verified from the identification presented under Section 63.001(b). Deletes existing text requiring the voter to present proof of identification in a form described by Section 63.0101.

SECTION 10. Amends Section 63.0101, Election Code, as follows:

Sec. 63.0101. DOCUMENTATION OF PROOF OF IDENTIFICATION. (a) Creates Subsection (a) from existing text. Provides that the following documentation is an acceptable form of photo identification, rather than is acceptable as proof of identification, under this chapter:

- (1) a driver's license or personal identification card issued to the person by the Department of Public Safety that has not expired or that expired no earlier than two years before the date of presentation. Deletes existing text relating to a similar document issued to the person by an agency of another state, regardless of whether the license or card has expired;
- (2) a United States military identification card that contains the person's photograph, rather than a form of identification containing the person's photograph that establishes the person's identity;
- (3) a United States citizenship certificate, rather than citizenship papers, issued to the person that contains the person's photograph. Deletes existing text relating to a birth certificate or other document confirming birth that is admissible in a court of law and establishes the person's identity;
- (4) a United States passport issued to the person;
- (5) a license to carry a concealed handgun issued to the person by the Department of Public Safety. Deletes existing text relating to official mail addressed to the person by name from a governmental entity; or
- (6) a valid identification card that contains the person's photograph and is issued by an agency or institution of the federal government; or an agency, institution, or political subdivision of this state.

Makes nonsubstantive changes.

(b) Provides that the following documentation is acceptable as proof of identification under this chapter:

- (1) a copy of a current utility bill, bank statement, government check, paycheck, or other government document that shows the name and address of the voter;
- (2) official mail addressed to the person by name from a governmental entity;
- (3) a certified copy of a birth certificate or other document confirming birth that is admissible in a court of law and establishes the person's identity;
- (4) United States citizenship papers issued to the person;
- (5) an original or certified copy of the person's marriage license or divorce decree;
- (6) court records of the person's adoption, name change, or sex change;
- (7) an identification card issued to the person by a governmental entity of this state or the United States for the purpose of obtaining public benefits, including veteran's benefits, Medicaid, or Medicare;
- (8) a temporary driving permit issued to the person by the Department of Public Safety;
- (9) a pilot's license issued to the person by the Federal Aviation Administration or another authorized agency of the United States;

(10) a library card that contains the person's name issued to the person by a public library located on this state; or

(11) a hunting or fishing license issued to a person by the Parks and Wildlife Department. Deletes existing text relating to any other form of identification prescribed by the secretary of state.

SECTION 11. Amends Section 63.011(a), Election Code, to authorize a person to whom Section 63.001(g), 63.008(b) (relating to authorizing a voter to be accepted for provisional voting), or 63.009(a) (relating to a voter who does not present a voter registration certificate) applies, to cast a provisional ballot if the person executes an affidavit stating certain information.

SECTION 12. Amends Section 521.422, Transportation Code, by amending Subsection (a) and adding Subsection (d), as follows:

(a) Provides that, except as provided by Subsection (d), the fee for a personal identification certificate is \$15 for a person under 60 years of age; \$5 for a person 60 years of age or older; and \$20 for a person subject to the registration requirements under Chapter 62 (Sex Offender Registration Program), Code of Criminal Procedure.

(d) Prohibits the Texas Department of Public Safety (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 Section 63.001(b)(1), Election Code, and who is a registered voter in this state and presents a valid voter registration certificate; or who is eligible for registration under Section 13.001 (Eligibility for Registration), Election Code, and submits a registration application to DPS.

SECTION 13. Provides that, as soon as practicable after the effective date of this Act:

(1) the secretary of state is required to adopt the training standards and develop the training materials required to implement the change in law made by this Act to Section 32.111, Election Code; and

(2) the count clerk of each county is required to provide a session of training under Section 32.114, Election Code, using the standards adopted and materials developed to implement the change in law made by this Act to Section 32.111, Election Code.

SECTION 14. (a) Effective date, except as provided by Subsection (b): January 1, 2010.

(b) Effective date, Sections 1, 2, 3, 4, and 13: September 1, 2009.