

BILL ANALYSIS

C.S.S.B. 1970
By: Duncan
Elections
Committee Report (Substituted)

BACKGROUND AND PURPOSE

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. This bill addresses questions frequently asked of and by election officials and will result in more efficient elections.

C.S.S.B. 1970 amends certain election practices and procedures in the Election Code.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is expressly granted to the secretary of state in SECTION 2 of this bill.

ANALYSIS

C.S.S.B. 1970 amends the Election Code to remove as a condition for the applicability of provisions relating to the election of an unopposed candidate in an election for officers of a political subdivision other than a county in which write-in votes may be counted only for names appearing on a list of write-in candidates the condition that no proposition is to appear on the ballot. The bill establishes that, for the purposes of those provisions, 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.

C.S.S.B. 1970 specifies that the requirement that a copy of the order or ordinance issued by the governing body of a political subdivision to declare each unopposed candidate elected to office be posted on election day at each polling place used or that would have been used in the election is contingent on no election being held on election day by the political subdivision. The bill requires 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 to include the offices and names of the candidates declared elected listed separately after the measures or contested races in the separate election under the heading "Unopposed Candidates Declared Elected." The bill requires the candidates to be grouped in the same relative order prescribed for the ballot generally, and establishes that no votes are cast in connection with the candidates. The bill authorizes the secretary of state by rule to prescribe any additional procedures necessary to accommodate a particular voting system or ballot style and to facilitate the efficient and cost-effective implementation of these provisions.

C.S.S.B. 1970 includes as a condition that constitutes the offense of coercion against candidacy to include influencing or attempting to influence a person by intimidation or by means of coercion to withdraw as a candidate.

C.S.S.B. 1970 authorizes an authority that orders an election on a measure, if the authority determines that the action to be authorized by the voters may not be taken, regardless of the

outcome of the election, to declare the measure moot and remove the measure from the ballot. The bill requires the authority holding the election, if a measure is declared moot 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, and authorizes an authority that orders an election to cancel the election only if the power to cancel the election is specifically provided by statute. The bill specifies that the requirement for the location of each polling place to be stated in the notice of a general or special election provided by the responsible authority includes the location of each early voting polling place.

C.S.S.B. 1970 includes in the conditions under which a registrar is required immediately to cancel a voter's registration the receipt of notice from the early voting clerk that a federal postcard application submitted by an applicant states a voting residence address located outside the registrar's county. The bill authorizes the presiding officer of the final canvassing authority for county returns to make a clerical correction to the officially canvassed returns based on any authorized amended county canvass filed with the presiding officer.

C.S.S.B. 1970 includes any runoff election resulting from an election held on the uniform election date in May in the provision establishing the period for early voting by personal appearance as beginning on the 12th day before election day and continuing through the fourth day before election day. The bill specifies that an election order and election notice are required to state the location of each early voting polling place, rather than the main early voting place. The bill requires an early voting clerk to notify the voter registrar for the county of a federal postcard application submitted by an applicant that states a voting residence address located outside the registrar's county.

C.S.S.B. 1970 specifies that a person is eligible to vote a limited ballot by personal appearance during the early voting period or by mail, after changing residence to another county, if the person is registered to vote in the county of former residence at the time the person offers to vote in the county of new residence, rather than when the voter changed residence, in addition to meeting other requirements. The bill 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 and defines "voting system technician."

C.S.S.B. 1970 requires the authority with which an application for a place on the ballot must be filed, not later than the 30th day before the first day on which a candidate may file the application, to post notice of the dates of the filing period in a public place in a building in which the authority has an office.

C.S.S.B. 1970 reenacts and amends Section 146.0301(a), Election Code, as amended by Chapters 1107 (H.B. 2309) and 1109 (H.B. 2339), 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. The bill amends the provision requiring a county executive committee to convene to conduct the local canvass of a primary election at the county seat on the second Thursday after election day at the hour specified by the county chair by removing language specifying that the committee must convene not earlier than 6 p.m. on the second Thursday or later than 1 p.m. on the second Friday after election day. The bill specifies that the state executive committee is required to convene to conduct the state canvass for the general primary election not later than the second Sunday, rather than on the second Wednesday, after general primary election day, and makes that deadline applicable to an election in which three or more candidates are seeking election to the same office, or the 22nd day after general primary election day for any other election. The bill requires the committee to convene at the call of the state chair to conduct the state canvass of the runoff primary election not later than the third Saturday, rather than the second Saturday, after runoff primary election day.

C.S.S.B. 1970 includes as a condition for a political party's entitlement to have the names of its

nominees for president and vice-president of the United States placed on the ballot in a presidential general election that the party's state chair delivers the written certification of the names of the party's nominees and the names and residence addresses of presidential elector candidates nominated by the party to the secretary of state before the later of 5 p.m. of the 70th day before presidential election day or 5 p.m. of the first business day after the date of final adjournment of the party's national presidential nominating convention, rather than requiring the party's state chair to sign and deliver the certification before 5 p.m. of the 70th day before presidential election day. The bill establishes that, if the state chair's certification of the party's nominees is delivered by mail, it is considered to be delivered at the time of its receipt by the secretary of state.

C.S.S.B. 1970 requires the secretary of state to deliver the certification of candidates for placement on the ballot to the authority responsible for having the official ballot prepared in each county before the later of the 62nd day before presidential election day or the second business day after the date of final adjournment of the party's national presidential nominating convention, rather than not later than the 62nd day before presidential day. The bill changes the deadline by which a candidate's application for a place on a special election ballot must be filed from 5 p.m. of the 67th day before election day to 5 p.m. of the 62nd day before election day if election day is on or after the 70th day after the date the election is ordered. The bill establishes that the amount of the recount deposit is \$60, rather than five times the maximum hourly rate of pay for election judges, for each precinct in which regular paper ballots were used, and \$100 for each precinct in which an electronic voting system was used. The bill removes provisions requiring the amount of the recount deposit to be determined by the number of precincts for which a recount is requested in the document that the deposit accompanies and setting out a deposit schedule based on the maximum hourly rate of pay for election judges in a precinct and the types of voting methods used in the precinct.

C.S.S.B. 1970 amends provisions relating to the representation of a candidate, a political party, or a specific-purpose political committee at a recount of an election to specify that such individuals and entities are entitled to have watchers, rather than representatives, present at the recount. The bill amends provisions relating to joint elections to establish that such an election is authorized if the elections ordered by the authorities of two or more political subdivisions are to be held on the same day in all or part of the same county, rather than the same territory. The bill makes conforming changes and technical corrections.

C.S.S.B. 1970 repeals a provision establishing that a person attains a specified age on the day before the anniversary of the person's birthday.

C.S.S.B. 1970 repeals the following sections of the Election Code:

- Section 1.016
- Section 32.051(d)
- Section 33.031(b)
- Section 41.0041(b)
- Section 65.002(d)

EFFECTIVE DATE

September 1, 2009.

COMPARISON OF ORIGINAL AND SUBSTITUTE

C.S.S.B. 1970 removes a provision in the original requiring an insufficient number of ballots or a malfunction of electronic voting system equipment to be remedied through the use of emergency paper ballots when no other method of voting is available during voting hours for a person

whose acceptance for voting is required by state election laws, and requiring the secretary of state to prescribe procedures for the creation and use of such ballots.