

BILL ANALYSIS

H.B. 2817
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Elections
Committee Report (Unamended)

BACKGROUND AND PURPOSE

Every election cycle presents new situations that often result in the need to clarify or adjust state election laws to provide local jurisdictions more flexibility and direction in the election process.

H.B. 2817 seeks to address certain questions and concerns of some election officials and provide for more efficient elections by clarifying and refining certain provisions of law relating to the state and local election processes.

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

H.B. 2817 amends the Election Code to require the voter registrar of a county, not later than the 30th day after the date of a primary, runoff primary, or general election or any special election ordered by the governor, to electronically submit to the secretary of state the record of each voter participating in that election. The bill establishes that the pertinent documents required to be submitted by the secretary of state to the attorney general with the referral of a complaint relating to suspected criminal conduct in connection with an election are not considered public information until the attorney general has completed the investigation or has made a determination that the complaint referred does not warrant an investigation.

H.B. 2817 removes as a condition for a contract between a county election officer with the county executive committee of a political party holding a primary election in the county for election services to be binding that the contract be approved in writing by the secretary of state. The bill removes a provision making the execution of such a contract incomplete until the written approval is obtained. The bill removes the requirement for the secretary of state, on referral by either the county elections administrator or a political subdivision or political party in a contract to furnish election services if the contracting parties are unable to reach an agreement, to either prescribe terms that the administrator must accept or instruct the administrator to decline to enter into a contract with the requesting party.

H.B. 2817 requires the appointment, in the event that the candidates for governor of two political parties received the same number of votes in a regular election precinct, of the first person meeting the applicable eligibility requirements from the list submitted by the party whose candidate for governor received the highest number of votes in a county as the presiding judge for that election precinct and the first person meeting the applicable eligibility requirements from the list submitted by the party whose candidate for governor received the second highest number of votes in the county as the alternate presiding judge for the election precinct.

H.B. 2817 specifies that the statement by affidavit required to be contained in a certificate of appointment for a watcher of an election regarding the appointee's possession of certain devices

that record images or sound while serving as a watcher is required to be a statement that the appointee will not have possession of a device capable of recording images or sound, rather than possession of any mechanical or electronic means of making such recordings, or that the appointee will disable or deactivate such device. The bill specifies that the prohibition against a watcher being accepted for service based on the watcher's possession of certain devices that record images or sound applies to a device capable of recording images or sound, rather than to possession of any mechanical or electronic means of making such recordings and creates an exception to the prohibition if the watcher agrees to disable or deactivate the device. The bill specifies that the prohibition against certain devices that record images or sound being allowed inside the room in which a recount is conducted or in certain proximity to the room while the recount is in progress applies to any device capable of recording images or sound, rather than any mechanical or electronic means of making such recordings in those areas and creates an exception to that prohibition for a person entitled to be present at the recount who agrees to disable or deactivate the device.

H.B. 2817, in a provision establishing that procedures governing the use of sealed ballot boxes in electronic voting system elections apply to the use of such ballot boxes used in early voting to the extent those procedures can be made applicable, removes the specification that references in those procedures to the central counting station apply to the early voting ballot board. The bill requires each custodian of a key to an early voting ballot box for preserving voted ballots after an election to retain possession of the key until it is delivered to the presiding judge of the central counting station, rather than to the early voting ballot board. The bill removes the requirement that the procedures prescribed by the secretary of state for the security of early voting ballots include security measures covering the transfer of the ballots between the early voting clerk and the early voting ballot board. The bill removes the requirement that the early voting clerk deliver to the early voting ballot board each ballot box containing the early voting ballots voted by personal appearance and the clerk's key to each box. The bill removes a provision specifying that the information to be included in the ballot transmittal form the early voting clerk is required to deliver to the early voting ballot board includes the number of names appearing on the poll lists prepared in connection with early voting by personal appearance.

H.B. 2817 includes as a condition of a person's eligibility to vote a limited ballot by personal appearance during the early voting period or by mail after changing residence to another county that the person be registered to vote in the county of former residence at the time the person submitted a voter registration application in the county of new residence. The bill requires the written plan for the orderly operation of a central counting station required to be established and implemented by the manager of the station to address the process for comparing the number of voters who signed the combination form with the number of votes cast for the entire election.

H.B. 2817 provides an alternate deadline for posting notice of the dates of a filing period the election authority with whom an application for a place on the ballot for public office is required to be filed to require the posting not later than the 30th day before the last day on which a candidate is authorized to file the application, if statutory provisions do not designate a first day on which the candidate is authorized to file the application. The bill creates an exception to the posting requirement for an office filled at the general election for state and county officers. The bill provides as an alternative to the requirement that a request by a candidate to withdraw from an election be timely filed with the appropriate authority that the request be filed with an agent of that authority and specifies that the timely filing of a withdrawal request is required to be made as expressly provided by provisions of law. The bill establishes that a withdrawal that is not filed in compliance with certain specified requirements has no legal effect and is not considered filed and makes statutory provisions relating to the effect of votes cast for a deceased or ineligible candidate applicable to votes cast for a withdrawn candidate.

H.B. 2817 changes the deadline by which a candidate is required to withdraw from an election other than the general election for state and county officers from 5 p.m. on the second day before the beginning of early voting by personal appearance to 5 p.m. on the third day after the deadline

for filing the candidate's application for a place on the ballot. The bill removes the specification in a provision establishing the deadline to withdraw for a candidate in a runoff election that the deadline applies to a candidate in a runoff election following a main election subject to certain deadlines for filing a withdrawal request. The bill changes the deadline by which a candidate for nomination by a political party is required to withdraw from the general primary election from the 62nd day before general primary election day to the first day after the deadline for filing the candidate's application for a place on the general primary election ballot.

H.B. 2817 specifies that the provision of law making statutory provisions governing the general conduct of a recount applicable to an automatic recount with appropriate modifications as prescribed by the secretary of state includes the statutory provision establishing notice requirements for a recount. The bill makes the requirement that a contestant in an election contest file a petition for the contest not later than the 10th day after the date the official result of the election is determined applicable to a contest of a runoff primary election.

H.B. 2817 requires the Texas Ethics Commission, rather than the secretary of state, for purposes relating to the Judicial Campaign Fairness Act, not later than June 1 of each odd-numbered year to meet specified requirements regarding the written certification of the population of certain judicial districts and delivery of the certification to certain county clerks. The bill specifies that the requirement that the commission or county clerk make written notice of certain political contribution and expenditure limits available to each candidate for an office covered by the Judicial Campaign Fairness Act must be met following the certification of population, rather than on receipt of the certification.

H.B. 2817 specifies, in a provision relating to the conditions under which a petition for a local option election on the sale of alcoholic beverages is issued by a county clerk, that the requirement that proof of publication in a newspaper of general circulation in a political subdivision be provided to the county clerk by 10 or more qualified voters of the political subdivision along with a written application for such a petition applies to proof of publication of a notice. The bill requires such a notice to include the individual or entity that is applying for the petition to gather signatures for a local option liquor election, the type of local option liquor election, the name of the political subdivision in which the petition will be circulated, and the name and title of the person with whom the application will be filed. The bill establishes that the requirement that the county clerk require the applicants for such a petition to make a deposit before the issuance of the petition if the county is not required to pay the expense of the election applies to the election's initial expense and that the exemption from such payment applies regardless of any authority to receive reimbursement. The bill defines "political subdivision" and makes conforming and nonsubstantive changes.

H.B. 2817 repeals the following sections of the Election Code:

- Section 18.041, relating to an annual report of voter registrations prepared by a voter registrar
- Section 18.042, relating to a preelection registration statement filed by a voter registrar with the secretary of state
- Section 87.0221, relating to the delivery of paper ballots to an early voting ballot board
- Section 87.023, relating to the delivery of automatically counted ballots to an early voting ballot board
- Section 145.092(c), relating to the deadline for the withdrawal of a candidate in a runoff election following a main election, other than a general election for state and county officers

EFFECTIVE DATE

September 1, 2011.