

## **BILL ANALYSIS**

C.S.H.B. 2875  
By: Davis, Sarah  
Elections  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

According to concerned parties, voters who attempt to vote but are not on the poll list maintained by an election officer at the polling place can be added to an omissions list and allowed to vote by regular ballot, leaving a potential loophole for voter fraud. These parties further assert that, under this process, the voter remains unregistered because the voter registrar cannot register a voter based on the omissions list, whereas if the voter votes by provisional ballot rather than having the voter's name placed on the omissions list, the voter automatically is registered for the next election because a provisional ballot also serves as a voter registration application.

C.S.H.B. 2875 closes this potential loophole for voter fraud by addressing the omissions list and provisional voting by a voter whose name is not on the poll list. The bill simplifies polling place procedures for election judges by providing only two options for potential voters: either voting a regular ballot, if the voter's name is on the poll list, or voting a provisional ballot, if the voter's name is not on the poll list.

### **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**

C.S.H.B. 2875 amends the Election Code to specify, in a provision of law requiring the voter registrar for a county to make appropriate corrections in the voter registration records, that such a correction is made after receipt of a copy of the poll list, rather than a copy of the registration omissions list, and receipt of any affidavits executed by voters with required documentation who are not on the precinct list of registered voters in accordance with the bill's provisions.

C.S.H.B. 2875 increases from two to three the number of copies of the poll list required to be maintained, along with the original, by an election officer at the polling place.

C.S.H.B. 2875 establishes that a voter who, when offering to vote, presents the required documentation but whose name is not on the precinct list of registered voters shall be accepted for voting if the voter, as an alternative to presenting a voter registration certificate indicating that the voter is currently registered in the precinct in which the voter is offering to vote, presents a voter registration certificate indicating that the voter is currently registered in a different precinct in the same county as the precinct in which the voter is offering to vote and the voter executes an affidavit. The bill requires the affidavit to state that the voter is a resident of the precinct in which the voter is offering to vote or is otherwise entitled by law to vote in that precinct, was a resident of the precinct in which the voter is offering to vote at the time the information on the voter's residence address was last provided to the voter registrar, did not deliberately provide false information to secure registration in a precinct in which the voter does not reside, and is voting only once in the election. The bill includes entering the precinct of the voter's registration, the voter's registration number as indicated by the voter's registration

certificate, and the voter's address beside the voter's name on the poll list among the actions an election officer is required to perform after the voter is accepted for voting.

C.S.H.B. 2875 clarifies the persons authorized to cast a provisional ballot if the person executes the required affidavit. The bill clarifies that a form for an affidavit required for certain provisional voters must be printed on an envelope in which the provisional ballot voted by the person is authorized to be placed, rather than providing that such a form shall be printed on the envelope. The bill expands the required contents of a form for such an affidavit to include a space for an election officer to indicate whether the person presented an acceptable form of identification.

C.S.H.B. 2875 includes a copy of the poll list and any affidavits executed by voters with required documentation who are not on the precinct list of registered voters among the documents that must be contained in envelope no. 4, the envelope of certain precinct election records that is addressed to the voter registrar, and removes from such documents a copy of the registration omissions list. The bill makes conforming changes.

C.S.H.B. 2875 repeals the following provisions of the Election Code:

- Section 63.005, relating to the maintenance of a registration omissions list by an election officer at a polling place
- Section 63.007, relating to the acceptance of a voter with an incorrect voter registration certificate who is not on the precinct list of registered voters
- Section 63.008, relating to the acceptance of a voter without a voter registration certificate who is on the precinct list of registered voters

#### **EFFECTIVE DATE**

January 1, 2012.

#### **COMPARISON OF ORIGINAL AND SUBSTITUTE**

C.S.H.B. 2875 differs from the original by specifying, in a provision of law requiring the voter registrar for a county to make appropriate corrections in the voter registration records after receipt of certain information, that such information includes any affidavits executed by voters with required documentation who are not on the precinct list of registered voters, rather than any affidavits executed by voters with incorrect voter registration certificates who are not on the precinct list of registered voters, as in the original.

C.S.H.B. 2875 contains a provision not included in the original, in the requirement that a voter who presents the required documentation when offering to vote but whose name is not on the precinct list of registered voters be accepted for voting under certain conditions, to include as a condition for the voter's acceptance for voting that the voter presents a voter registration certificate indicating that the voter is currently registered in the precinct in which the voter is offering to vote or in a different precinct in the same county as the precinct in which the voter is offering to vote and the voter executes an affidavit stating specified information. The substitute contains a provision not included in the original including among the actions an election officer is required to perform after a voter is accepted the entering beside the voter's name on the poll list of the precinct of the voter's registration, the voter's registration number as indicated by the voter's registration certificate, and the voter's address.

C.S.H.B. 2875 differs from the original by repealing Section 63.007, Election Code, relating to the acceptance of a voter with an incorrect voter registration certificate who is not on the precinct list of registered voters, whereas the original amends that statutory provision to set out the conditions under which a voter with an incorrect voter registration certificate or without a certificate who is not on the precinct list of registered voters must be accepted for provisional

voting. The substitute differs from the original by retaining Section 63.009, Election Code, repealed in the original, relating to the acceptance for provisional voting of a voter without a voter registration certificate who is not on the precinct list of registered voters and making conforming changes.

C.S.H.B. 2875 contains a provision not included in the original clarifying the persons authorized to cast a provisional ballot if the person executes an affidavit stating certain specified information regarding the voter. The substitute contains provisions not included in the original clarifying that a form for an affidavit required for certain provisional voters must be printed on an envelope in which the provisional ballot voted by the person is authorized to be placed and expanding the required contents of a form for such an affidavit to include a space for an election officer to indicate whether the person presented an acceptable form of identification.

C.S.H.B. 2875 contains a provision not included in the original including any affidavits executed by voters with required documentation who are not on the precinct list of registered voters among the documents that must be contained in envelope no. 4, the envelope of certain precinct election records that is addressed to the voter registrar.

C.S.H.B. 2875 contains a provision not included in the original repealing Section 63.008, Election Code, relating to the acceptance of a voter without a voter registration certificate who is on the precinct list of registered voters.

C.S.H.B. 2875 differs from the original in conforming and nonsubstantive ways.