

## **BILL ANALYSIS**

C.S.H.B. 728  
By: Price  
Elections  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

In order to be eligible to be elected or appointed to a public office in this state, or to be a candidate for such an office, a person must meet certain eligibility requirements. These requirements include not having been convicted of a felony from which the person has not been pardoned or otherwise released from the resulting disabilities. Concerned observers point to what they say is a loophole in the eligibility requirements. The fact that a person has been prosecuted for a felony offense, has pled guilty to the offense, and has been placed on deferred adjudication community supervision for the offense is not among the conditions making a person ineligible to be elected or appointed to a public office in Texas or to be a candidate for such an office. C.S.H.B. 728 seeks to make such persons ineligible to be elected or appointed to public office.

### **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. 728 amends the Election Code to revise an eligibility requirement for candidacy for, or election or appointment to, public elective office in Texas by requiring a person to have not been placed on deferred adjudication community supervision for a felony, as well as to have not been convicted of such, from which the person has not been pardoned. The bill also removes the exception that the person has been released from the resulting disabilities by a means other than a pardon.

### **EFFECTIVE DATE**

September 1, 2013.

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

While C.S.H.B. 728 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and highlighted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

#### **INTRODUCED**

SECTION 1. Section 141.001(a), Election Code, is amended to read as follows:

- (a) To be eligible to be a candidate for, or elected or appointed to, a public elective office in this state, a person must:
- (1) be a United States citizen;

#### **HOUSE COMMITTEE SUBSTITUTE**

SECTION 1. Section 141.001(a), Election Code, is amended to read as follows:

- (a) To be eligible to be a candidate for, or elected or appointed to, a public elective office in this state, a person must:
- (1) be a United States citizen;

83R 22140

13.102.779

Substitute Document Number: 83R 17806

- (2) be 18 years of age or older on the first day of the term to be filled at the election or on the date of appointment, as applicable;
- (3) have not been determined by a final judgment of a court exercising probate jurisdiction to be:
  - (A) totally mentally incapacitated; or
  - (B) partially mentally incapacitated without the right to vote;
- (4) have not been finally convicted of a felony from which the person has not been pardoned or otherwise released from the resulting disabilities;
- (6) have not been placed on deferred adjudication community supervision for a felony; and
- (5) have resided continuously in the state for 12 months and in the territory from which the office is elected for six months immediately preceding the following date:
  - (A) for a candidate whose name is to appear on a general primary election ballot, the date of the regular filing deadline for a candidate's application for a place on the ballot;
  - (B) for an independent candidate, the date of the regular filing deadline for a candidate's application for a place on the ballot;
  - (C) for a write-in candidate, the date of the election at which the candidate's name is written in;
  - (D) for a party nominee who is nominated by any method other than by primary election, the date the nomination is made; and
  - (E) for an appointee to an office, the date the appointment is made; ~~and~~
 (see subdivision (6) above)
- (7) satisfy any other eligibility requirements prescribed by law for the office.

SECTION 2. The changes in law made by this Act apply only to the eligibility requirements for a candidate whose term of office will begin on or after the effective date of this Act. The eligibility requirements for a candidate whose term of office will begin before the effective date of this Act are governed by the law in effect immediately before the effective date of this Act, and the former law is continued in effect for that purpose.

- (2) be 18 years of age or older on the first day of the term to be filled at the election or on the date of appointment, as applicable;
- (3) have not been determined by a final judgment of a court exercising probate jurisdiction to be:
  - (A) totally mentally incapacitated; or
  - (B) partially mentally incapacitated without the right to vote;
- (4) have not been ~~finally~~ convicted of ~~or placed on deferred adjudication community supervision for~~ a felony from which the person has not been pardoned ~~[or otherwise released from the resulting disabilities];~~
- (5) have resided continuously in the state for 12 months and in the territory from which the office is elected for six months immediately preceding the following date:
  - (A) for a candidate whose name is to appear on a general primary election ballot, the date of the regular filing deadline for a candidate's application for a place on the ballot;
  - (B) for an independent candidate, the date of the regular filing deadline for a candidate's application for a place on the ballot;
  - (C) for a write-in candidate, the date of the election at which the candidate's name is written in;
  - (D) for a party nominee who is nominated by any method other than by primary election, the date the nomination is made; and
  - (E) for an appointee to an office, the date the appointment is made; and
- (6) satisfy any other eligibility requirements prescribed by law for the office.

SECTION 2. Same as introduced version.

SECTION 3. This Act takes effect  
September 1, 2013.

SECTION 3. Same as introduced version.