

BILL ANALYSIS

C.S.H.B. 2931
By: Capriglione
Elections
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Interested parties note that presiding election judges currently have the authority to remove an alternate presiding judge, an election clerk, or an election watcher from a polling place for any reason without having to show that the judge, clerk, or watcher violated any election law. Noting that alternate presiding judges, election clerks, and election watchers are necessarily political positions and can be targeted by a presiding election judge from the opposite political party, the parties point out that the current law makes it both convenient and politically expedient for a judge to have such a judge, clerk, or watcher removed without any checks or balances on the presiding judge's authority. To address this issue, C.S.H.B. 2931 seeks to place limitations on the removal of an alternate presiding judge, election clerk, or election watcher from a polling place.

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. 2931 amends the Election Code to prohibit a presiding election judge from removing an alternate presiding judge, an election clerk, or a person appointed to observe or watch the conduct of an election on behalf of a candidate, a political party, or the proponents or opponents of a measure from a polling place unless the presiding judge believes that the alternate presiding judge, election clerk, or watcher has violated a law and has communicated to that person, in a written and signed document, the specific law the presiding judge believes the person violated or unless the removal is pursuant to an arrest warrant issued by the presiding election judge. The bill requires the a presiding judge, as soon as possible after such a removal, to inform the county clerk, county elections administrator, or similar official administering the election for a political subdivision of the removal.

EFFECTIVE DATE

On passage, or, if the bill does not receive the necessary vote, September 1, 2013.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 2931 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. Subchapter D, Chapter 32, Election Code, is amended by adding

HOUSE COMMITTEE SUBSTITUTE

SECTION 1. Subchapter D, Chapter 32, Election Code, is amended by adding

83R 26968

13.122.975

Substitute Document Number: 83R 26280

Section 32.076 to read as follows:

Sec. 32.076. REMOVAL OF WATCHER OR CLERK FROM POLLING PLACE.

A presiding judge may not remove a watcher or election clerk from a polling place unless:

(1) the early voting clerk approves the removal; or

(2) the removal is pursuant to an arrest warrant issued by the presiding judge under Section 32.075(c).

SECTION 2. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2013.

Section 32.076 to read as follows:

Sec. 32.076. REMOVAL OF WATCHER, ALTERNATE PRESIDING JUDGE, OR CLERK FROM POLLING PLACE. (a)

A presiding judge may not remove a watcher, alternate presiding judge, or election clerk from a polling place unless:

(1) the presiding judge believes that the watcher, alternate presiding judge, or clerk has violated a law, and has communicated to that person, in a written and signed document, the specific law the presiding judge believes the person violated; or

(2) the removal is pursuant to an arrest warrant issued by the presiding judge under Section 32.075(c).

(b) A presiding judge shall, as soon as possible after a removal under this section, inform the county clerk, county elections administrator, or similar official administering the election for a political subdivision of the removal.

SECTION 2. Same as introduced version.