

BILL ANALYSIS

Senate Research Center

H.B. 3103
By: Morrison et al. (Duncan)
State Affairs
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Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

H.B. 3103 seeks to clarify, revise, and update provisions in the Election Code relating to the conduct of primary elections. This will result in more efficient and reliable primary and primary runoff elections.

In particular, it amends procedures relating to candidates who have filed for inclusion on an electoral ballot; the manner in which names are listed on a primary or primary runoff election ballot; making a notification of persons elected as party officers; the submission of county election returns; the reporting of precinct election results; and notations in runoff primary elections concerning the party status of a voter.

H.B. 3103 amends current law relating to the administration of primary elections, the nomination of candidates by convention, and voting by certain military and overseas voters.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the secretary of state in SECTION 5 (Section 172.029, Election Code) and SECTION 12 (Section 172.118, Election Code) of this bill.

Rulemaking authority previously granted to the secretary of state is rescinded in SECTION 20 (Section 50, Chapter 1318 (S.B. 100), Acts of the 82nd Legislature, Regular Session, 2011) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 101.007, Election Code, by adding Subsection (d), to require the secretary of state (SOS) to make a checklist or similar guidelines available for optional use by early voting clerks in processing an application and providing balloting materials under this chapter.

SECTION 2. Amends Section 101.107(b), Election Code, as follows:

(b) Requires a voter who receives a ballot under this subchapter to return the ballot in the same manner as required under Section 101.057 (Return of Voted Ballot), except that a voter who completes a signature sheet is not required to complete a carrier envelope. Prohibits the voter, except as provided by Chapter 105 (Voting by Military Personnel or Other Persons Overseas), from returning the ballot by electronic transmission. Makes nonsubstantive changes.

SECTION 3. Amends Section 172.022(b), Election Code, as follows:

(b) Requires the county chair of the county executive committee (county chair) to post on the political party's Internet website or in the location where a candidate files for a place on the ballot, rather than on the bulletin board used for posting notice of meetings of the commissioners court, notice of the address at which the county chair or secretary of the county executive committee (secretary) will be available to receive applications on the last day of the filing period not later than the day before the last day of the filing period. Requires that the notice contain the address at which each will be available if

both the county chair and the secretary will be available. Provides that Section 1.006 (Effect of Weekend or Holiday) does not apply to this subsection.

SECTION 4. Amends Sections 172.028(a) and (b), Election Code, as follows:

(a) Requires the chair of the state executive committee (state chair) to certify to SOS, rather than to certify in writing, for placement on the general primary election ballot the name of each candidate who files with the state chair an application that complies with Section 172.021(b) (relating to requiring that an application be accompanied by the appropriate filing fee or a petition in lieu of the filing fee that satisfies certain requirements and prohibiting a political party from requiring payment of a fee as a condition to applying for a place on the ballot as a candidate for county chair or precinct chair). Requires SOS to post on SOS's website that is viewable by the public the certified list.

(b) Requires the state chair, not later than the 81st day before general primary election day, to notify the county chair in each county in which the candidate's name is to appear on the ballot that the certification has been posted by SOS, rather to deliver the certification to the county chair in each county in which the candidate's name is to appear on the ballot.

SECTION 5. Amends Section 172.029, Election Code, as follows:

Sec. 172.029. New heading: SUBMISSION AND COMPILATION OF INFORMATION PERTAINING TO CANDIDATES. (a) Requires the state chair and each county chair, for each general primary election, to electronically submit, rather than prepare a list containing, the following information:

- (1) the name of each candidate who files an application for a place on the ballot with the chair, including an application for the office of a political party;
- (2) the name of each candidate whose application meets the requirements of Section 172.021 (Application Required) and is accepted by the chair, as the name is to appear on the ballot;
- (3) the candidate's address as shown on the application;
- (4) the date on which the candidate filed the application; and
- (5) any additional information required by SOS.

Makes nonsubstantive changes.

(b) Requires SOS to continuously maintain an online database of information submitted under this section. Requires that the database be accessible by the county and precinct chairs of the party that submitted the information. Requires that any changes in the party's county or precinct chairs be reported to SOS. Requires SOS to adopt rules to implement this section, including rules regarding the public availability of information submitted under this section. Deletes existing text requiring that the candidates' names be grouped on the list according to office.

(c) Authorizes SOS to by rule prescribe a deadline by which the state chair is required to deliver the chair's submission regarding a candidate to SOS, and each county chair is required to deliver a copy of the chair's submission regarding a candidate to the county clerk, the state chair, and SOS when the chair accepts the application. Authorizes SOS to by rule prescribe a deadline for the delivery of a submission under this subsection. Deletes existing text requiring the state chair, not later than the 10th day after the date of the regular filing deadline for

candidates' applications, to deliver the chair's list to SOS, and requiring each county chair to deliver a copy of the chair's list to the county clerk, the state chair, and SOS.

(d) Requires SOS to be notified if a candidate withdraws, dies, or is declared ineligible, or if the candidate's application is determined not to comply with the applicable requirements, rather than requiring a candidate's name to be omitted from the list if, before delivery of the list, the candidate withdraws, dies, or is declared ineligible, or if the candidate's application is determined not to comply with the applicable requirements. Requires SOS to adopt rules implementing this subsection.

(e) Requires SOS to archive and keep available for inspection a list of all candidates for whom information has been submitted under this section, and prescribe rules for submitting the list electronically and methodology for distribution to each county clerk and state chair. Deletes existing text requiring SOS and each county clerk to retain each list received until the day after general primary election day.

SECTION 6. Amends Sections 172.054(a) and (b), Election Code, as follows:

(a) Provides that the deadline for filing an application for a place on the general primary election ballot is extended as provided by this section if a candidate who has made an application that complies with the applicable requirements:

(1) dies on or after the fifth day before the date of the regular filing deadline and on or before the first day after the date of the regular filing deadline, rather than dies on or after the fifth day before the date of the regular filing deadline and on or before the 79th day before general primary election day;

(2) holds the office for which the application was made and withdraws or is declared ineligible on the date of the regular filing deadline or the first day after the date of the regular filing deadline, rather than holds the office for which the application was made and withdraws or is declared ineligible on or after the date of the regular filing deadline and on or before the 79th day before general primary election day; or

(3) Makes no change to this subdivision.

(b) Requires that an application for an office sought by a withdrawn, deceased, or ineligible candidate be filed not later than 6 p.m. of the fifth day after the day of the regular filing deadline, rather than not later than the 81st day before the general primary election day. Provides that an application filed by mail with the state chair is not timely if received later than 5p.m. of the fifth day after the date of the regular filing deadline, rather than not later than 5 p.m. of the 81st day before general primary election day.

SECTION 7. Amends Sections 172.056(a) and (b), Election Code, as follows:

(a) Requires an electronic submission, if the deadline for filing applications is extended, to be made containing the name of each candidate who files an application that complies with the applicable requirements during the extended filing period, and whose name is not submitted under Section 172.029. Deletes existing text requiring, if the deadline for filing applications is extended, that a list be prepared, as provided by Section 172.029 for a list of candidates who file during the regular filing period, containing the name of each candidate who files an application that complies with the applicable requirements during the extended filing period, and whose name is not on the list prepared under Section 172.029.

(b) Requires that notification be made as prescribed by Section 172.029 that additional names have been added during the extended period. Deletes existing text providing that

the list prepared under this section is subject to the requirements prescribed by Section 172.029 except that the list is required to be delivered to SOS, the county clerk, and the state chair, as applicable, not later than the seventh day after the date of the extended deadline.

SECTION 8. Amends Section 172.057, Election Code, to require that a candidate's name be omitted from the general primary election ballot if the candidate withdraws, dies, or is declared ineligible on or before the first day after the date of the regular filing deadline, rather than on or before the 79th day before general primary election day.

SECTION 9. Amends Section 172.058(a), Election Code, to require that a candidate's name be placed on the ballot and the votes cast for the candidate be counted and entered on the official election returns in the same manner as for the other candidates, if a candidate who has made an application for a place on the general primary election ballot that complies with the applicable requirements dies or is declared ineligible after the first day after the date of the regular filing deadline, rather than after the 79th day before general primary election day.

SECTION 10. Amends Section 172.082(e), Election Code, as follows:

(e) Requires the party, if the party maintains an Internet website, to post the notice on the party's website. Requires all candidates who provide an e-mail address on their filing form to be notified electronically.

SECTION 11. Amends Section 172.084(e), Election Code, as follows:

(e) Requires the party, if the party maintains an Internet website, to post the notice on the party's website. Requires all candidates who provide an e-mail address on their filing form to be notified electronically.

SECTION 12. Amends Section 172.118(a) and (d), Election Code, as follows:

(a) Authorizes written notice to the state chair and county clerk of the names of the persons elected as county chair and precinct chairs for the county to be given by electronic means or through an electronic submission system adopted by the state executive committee of the party.

(d) Authorizes the state chair to deliver, on request of SOS, the required written notice of the names and addresses of the party's county chairs. Authorizes the notice to be given in electronic format as set out in rules adopted by SOS.

SECTION 13. Amends Section 172.119(b), Election Code, to authorize the state executive committee to adopt by rule an electronic submission system for delivery of the county returns.

SECTION 14. Amends Section 172.124, Election Code, by adding Subsection (d), to require SOS to create and maintain an electronic system for submission of the report of the number of votes, including early voting votes, received in each county election precinct by each candidate for a statewide office or the office of United States representative, state senator, or state representative.

SECTION 15. Amends Section 172.125(a), Election Code, as follows:

(a) Requires the voter registrar, for a runoff primary election, to make appropriate notations to indicate the preceding party primary for which the voter was accepted for voting, if any. Deletes existing text requiring the voter registrar, for a runoff primary election, to enter on the list of registered voters a notation beside each voter's name indicating the preceding party primary for which the voter was accepted for voting, if any.

SECTION 16. Amends Section 181.033(a), Election Code, to require that an application for nomination by a convention, except as provided by Subsection (b) (relating to authorizing a

political party to extend the filing deadline for applications for nomination for an office for which a candidate who has made an application withdraws, dies, or is declared ineligible) be filed not later than the regular deadline for candidates to file applications for a place on the general primary ballot, rather than not later than 5 p.m. on January 2 preceding the convention.

SECTION 17. Amends Sections 202.004(a) and (c), Election Code, as follows:

(a) Requires that a political party's nominee for an unexpired term be nominated by primary election if:

(1) Makes no change to this subdivision; and

(2) the vacancy occurs on or before the day before the date of the regular deadline for candidates to file applications for a place on the general primary ballot, rather than on or before the 62nd day before general primary election day.

(c) Requires that an application for the unexpired term be filed not later than 6 p.m. of the fifth day after the date of the regular filing deadline, rather than not later than 5 p.m. of the 15th day after the date the vacancy occurs or 5 p.m. of the 60th day before general primary election day, whichever is earliest.

SECTION 18. (a) Requires SOS to conduct a study on the effects of changing the presidential primary election date. Requires SOS, in conducting the study, to consult with all political parties in this state that hold presidential primary elections.

(b) Requires SOS to report the results of this study and make recommendations for any legislation to the 84th Legislature.

(c) Provides that this section expires June 1, 2015.

SECTION 19. Repealer: Section 172.028(d) (relating to requiring that the state chair's certification of names for placement on the general primary election ballot be made available on request to each newspaper published in this state and to each licensed radio and television station in this state), Election Code.

SECTION 20. (a) Repealer: Section 50 (relating to requiring SOS to adopt rules as necessary to implement the adoption of certain voting procedures and to certain elections, including procedures necessary to implement the Military and Overseas Voter Empowerment Act, deadlines for declaration of candidacy and dates for certain elections, and terms of certain elected officials), Chapter 1318 (S.B. 100), Acts of the 82nd Legislature, Regular Session, 2011.

(b) Prohibits SOS from adjusting or modifying affected election dates, deadlines, or procedures to implement the federal Military and Overseas Voter Empowerment Act under Section 50, Chapter 1318 (S.B. 100), Acts of the 82nd Legislature, Regular Session, 2011.

(c) Effective date, this section: December 31, 2016.

SECTION 21. Effective date: upon passage or September 1, 2013.