

BILL ANALYSIS

C.S.H.B. 3103
By: Morrison
Elections
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Interested observers note that, instead of taking advantage of electronic submission, county parties are currently required to post notice of their availability to accept applications on the bulletin board at the county courthouse and that state party chairs currently certify the list of candidates with the secretary of state in writing. The observers also note that other election procedures, such as the candidate filing process, could be updated to take advantage of modern technology. The parties further note, among other issues, that current law regarding the removal of a disqualified candidate's name from the ballot is ambiguous. C.S.H.B. 3103 seeks to clarify, revise, and update election law provisions to address these issues and to make other related changes.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is expressly granted to the secretary of state in SECTIONS 3 and 7 of this bill.

ANALYSIS

C.S.H.B. 3103 amends the Election Code to change the posting location of the notice of the address at which the county chair or secretary of the county executive committee will be available to receive applications for a place on the general primary election ballot on the last day of the filing period from a bulletin board used for posting notice of meetings of a commissioners court to a political party's Internet website or in the location where a candidate files for a place on the ballot. The bill, in a statutory provision requiring the state chair to certify for placement on the general primary election ballot the name of each candidate who files with the chair an application for placement on the ballot, requires the state chair to certify the name of each candidate to the secretary of state, removes a specification that the certification be in writing, and requires the secretary of state to post the certified list on the secretary's Internet website that is viewable by the public. The bill requires the state chair 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 the secretary of state, rather than to deliver the certification to each county chair.

C.S.H.B. 3103 requires the state chair and each county chair to electronically submit, rather than prepare a list containing, certain information relating to the candidates in a general primary election, adds to the information required to be submitted, and removes the requirement that the candidates' names be grouped on the list according to office. The bill requires the secretary of state to continuously maintain an online database of the submitted information and requires the database to be accessible by the county and precinct chairs that submitted the information. The bill requires any changes in the party's county or precinct chairs to be reported to the secretary of state and requires the secretary of state to adopt rules to implement the provisions relating to the submission and compilation of information pertaining to candidates, including rules regarding the public availability of the information.

C.S.H.B. 3103 revises statutory provisions relating to the delivery of the state chair's list of

candidates by authorizing the secretary of state to by rule prescribe a deadline by which the state chair must deliver the chair's submission regarding a candidate to the secretary of state. The bill requires each county chair to deliver a copy of the chair's submission regarding a candidate to the county clerk, the state chair, and the secretary of state when the chair accepts the application, and authorizes the secretary of state to by rule prescribe a deadline for the delivery of such a submission.

C.S.H.B. 3103 removes a statutory provision 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, and instead requires the secretary of state to be notified of such a circumstance. The bill requires the secretary of state to adopt rules implementing this provision.

C.S.H.B. 3103 requires the secretary of state to archive and keep available for inspection the list of all candidates for whom information has been submitted and to prescribe rules for submitting the list electronically and the methodology for distribution to each county clerk and state chair and removes a statutory provision requiring the secretary of state and each county clerk to retain each list received until the day after general primary election day. The bill, if the deadline for filing applications is extended, requires an electronic submission to be made containing the names of certain candidates, rather than requiring the preparation of a list of candidates who file during the regular filing period. The bill requires notification that additional names of candidates have been added during the extended filing period to be made as prescribed by the bill's provisions relating to submission and compilation of information pertaining to candidates and removes a provision requiring the supplemental list of candidates to be delivered to specified recipients by a certain time.

C.S.H.B. 3103 requires a notice of the date, hour, and place of the drawing to determine the order of candidates' names on a general primary election ballot and a notice of the date and hour of the drawing to determine the order of candidates' names on a runoff primary election ballot for statewide and district offices to be posted on a party's website, if the party maintains an Internet website, and requires all candidates who provide an e-mail address on their filing form to be notified electronically. The bill authorizes a notice of persons elected as county chair and precinct chairs for a county to be given by electronic means or through an electronic submission system adopted by the state executive committee of the party and authorizes a notice of the names and addresses of the party's county chairs to be given in electronic format as set out in rules adopted by the secretary of state.

C.S.H.B. 3103 authorizes the state executive committee to adopt by rule an electronic submission system for delivery of county election returns for the statewide and district offices voted on in a primary election. The bill requires the secretary of state to create and maintain an electronic system for submission of a report of precinct primary election results. The bill 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, and removes a provision requiring the voter registrar for such an 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.

C.S.H.B. 3103 repeals a provision relating to providing a copy of each state chair's certification of names for placement on the general primary ballot to certain news media.

C.S.H.B. 3103 repeals Section 172.028(d), Election Code.

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. 3103 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 172.022(b), Election Code, is amended.

SECTION 2. Sections 172.028(a) and (b), Election Code, are amended.

SECTION 3. Sections 172.029(a), (d), and (e), Election Code, are amended to read as follows:

(a) For each general primary election, the state chair and each county chair shall electronically submit [~~prepare~~] a list containing:

(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, as the name is to appear on the ballot;

(2) the candidate's address as shown on the application; and

(3) the date on which the candidate filed the application.

HOUSE COMMITTEE SUBSTITUTE

SECTION 1. Same as introduced version.

SECTION 2. Same as introduced version.

SECTION 3. Section 172.029, Election Code, is amended to read as follows:

Sec. 172.029. SUBMISSION AND COMPILATION OF INFORMATION PERTAINING TO [~~LIST OF~~] CANDIDATES. (a) For each general primary election, the state chair and each county chair shall electronically submit the following information [~~prepare a list containing~~]:

(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 and is accepted by the chair, as the name is to appear on the ballot;

(3) [(2)] the candidate's address as shown on the application; [and]

(4) [(3)] the date on which the candidate filed the application; and

(5) any additional information required by the secretary of state.

(b) The secretary of state shall continuously maintain an online database of information submitted under this section. The database must be accessible by the county and precinct chairs of the party that submitted the information. Any changes in the party's county or precinct chairs shall be reported to the secretary of state. The secretary of state shall adopt rules to implement this section, including rules regarding the public availability of information submitted under this section. [The candidates' names must be grouped on the list according to office.]

(c) The secretary of state may by rule

(d) The secretary of state shall be notified if a [A candidate's name must 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. The secretary of state shall adopt rules implementing this subsection.

(e) The secretary of state shall:

(1) archive and keep available for inspection the list of all candidates; and

(2) prescribe rules for submitting the list electronically and methodology for distribution to each county clerk and state chair [shall retain each list received until the day after general primary election day].

SECTION 4. Section 172.056(b), Election Code, is amended to read as follows:

(b) Notification shall be made as prescribed by Section 172.029 that additional names have been added during the extended period. [The list prepared under this section is subject to the requirements prescribed by Section 172.029 except that the list must be delivered to the secretary of state, county

prescribe a deadline by which [Not later than the 10th day after the date of the regular filing deadline for candidates' applications,] the state chair must [shall] deliver the chair's submission regarding a candidate [list] to the secretary of state, and each county chair shall deliver a copy of the chair's submission regarding a candidate [list] to the county clerk, the state chair, and the secretary of state when the chair accepts the application. The secretary of state may by rule prescribe a deadline for the delivery of a submission under this subsection.

(d) The secretary of state shall be notified if a [A candidate's name must 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. The secretary of state shall adopt rules implementing this subsection.

(e) The secretary of state shall:

(1) archive and keep available for inspection a list of all candidates for whom information has been submitted under this section; and

(2) prescribe rules for submitting the list electronically and methodology for distribution to each county clerk and state chair [shall retain each list received until the day after general primary election day].

SECTION 4. Sections 172.056(a) and (b), Election Code, are amended to read as follows:

(a) If the deadline for filing applications is extended, an electronic submission shall be made [a list shall 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:

(1) who files an application that complies with the applicable requirements during the extended filing period; and

(2) whose name is not submitted [on the list prepared] under Section 172.029.

(b) Notification shall be made as prescribed by Section 172.029 that additional names have been added during the extended period. [The list prepared under this section is subject to the requirements prescribed by Section 172.029 except that the list must be delivered to the secretary of state, county clerk, and state chair, as applicable, not later

~~clerk, and state chair, as applicable, not later than the seventh day after the date of the extended deadline.]~~

~~than the seventh day after the date of the extended deadline.]~~

SECTION 5. Section 172.082(e), Election Code, is amended.

SECTION 5. Same as introduced version.

SECTION 6. Section 172.084(e), Election Code, is amended.

SECTION 6. Same as introduced version.

SECTION 7. Sections 172.118(a) and (d), Election Code, are amended.

SECTION 7. Same as introduced version.

SECTION 8. Section 172.119(b), Election Code, is amended.

SECTION 8. Same as introduced version.

SECTION 9. Section 172.124, Election Code, is amended.

SECTION 9. Same as introduced version.

SECTION 10. Section 172.125(a), Election Code, is amended.

SECTION 10. Same as introduced version.

SECTION 11. Sections 172.028(d) and 172.029(b) and (c), Election Code, are repealed.

SECTION 11. Section 172.028(d), Election Code, is repealed.

SECTION 12. 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 12. Same as introduced version.