

## **BILL ANALYSIS**

S.B. 910  
By: Duncan  
Elections  
Committee Report (Unamended)

### **BACKGROUND AND PURPOSE**

Every election cycle presents new situations that often result in the need to clarify or adjust state election laws to allow local jurisdictions more flexibility and direction in the election process. S.B. 910 makes various changes to the Election Code with regard to state and local election processes. These changes address questions frequently asked of and by election officials and will result in more efficient elections.

S.B. 910 amends current law relating to certain election practices and procedures.

### **RULEMAKING AUTHORITY**

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

### **ANALYSIS**

SECTION 1. Amends Section 1.007(c), Election Code, to authorize a delivery, submission, or filing of a document or paper under this code to be made by telephonic facsimile machine, in addition to personal delivery, mail, or any other method of transmission.

SECTION 2. Amends Section 13.002(a), Election Code, to require that an application, except as provided by Subsection (e) (relating to providing that a person who is certified for participation in the address confidentiality program administered by the attorney general is not eligible for early voting by mail unless the application is submitted by personal delivery; authorizing the secretary of state to adopt rules to implement this section), be submitted by personal delivery, by mail, or by telephonic facsimile machine in accordance with Sections 13.143(d) and (d-2).

SECTION 3. Amends Section 13.143, Election Code, by amending Subsection (d) and adding Subsections (d-1) and (d-2), as follows:

(d) Provides that for purposes of determining the effective date of a registration, an application submitted by mail is considered to be submitted to the registrar on the date it is placed with postage prepaid and properly addressed in the United States mail, or telephonic facsimile machine is considered to be submitted to the registrar on the date the transmission is received by the registrar, subject to Subsection (d-2).

(d-1) Creates this subsection from existing text. Makes no further change.

(d-2) Requires that a copy of the registration application be submitted by mail and be received by the registrar not later than the fourth business day after the transmission by telephonic facsimile machine is received for a registration application submitted by telephonic facsimile machine to be effective.

SECTION 4. Amends Section 16.001, Election Code, by adding Subsection (e), as follows:

(e) Requires that the information required to be filed with the secretary of state (SOS) under this section be filed electronically. Authorizes SOS to waive this requirement on application for a waiver submitted by the appropriate entity.

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SECTION 5. Amends Section 31.006(b), Election Code, to provide that documents submitted under Subsection (a) (relating to SOS referring a complaint of alleged criminal conduct to the attorney general), rather than to the attorney general under Subsection (a), are not considered to be public information until the SOS makes a determination that the complaint received does not warrant an investigation, or if referred to the attorney general, the attorney general has completed the investigation or has made a determination that the complaint referred does not warrant an investigation.

SECTION 6. Amends Section 32.054, Election Code, by adding Subsection (d), to provide that, notwithstanding Subsection (b), a person employed by a county solely as an early voting clerk appointed under Chapter 83 (Officer Conducting Early Voting) is not employed by a candidate for the purposes of this section.

SECTION 7. Amends Subchapter C, Chapter 52, Election Code, by adding Section 52.075, as follows:

**Sec. 52.075. MODIFICATION OF BALLOT FORM FOR CERTAIN VOTING SYSTEMS.**

Authorizes SOS to prescribe the form and content of a ballot for an election using a voting system, including an electronic voting system or a voting system that uses direct recording electronic voting machines, to conform to the formatting requirements of the system.

SECTION 8. Amends Section 63.0011, Election Code, by adding Subsection (f), to provide that the information included on a statement of residence under Subsection (c)(2) (relating to the information that a person must include in an application to register to vote) is subject to section 13.004(c) (relating to the certain information furnished on a registration application being confidential).

SECTION 9. Amends Section 84.007(c), Election Code, to require that an application be submitted on or after the 60th day before the election day and before the close of regular business in the early voting clerk's office or 12 noon, whichever is later, on the ninth day, rather than the seventh day, before election day unless that day is Saturday, Sunday, or legal state or national holiday, in which case the last day is the first preceding regular business day.

SECTION 10. Amends Section 85.034, Election Code, as follows:

**Sec. 85.034. VOTER UNABLE TO ENTER POLLING PLACE.** Deletes existing Subsection (a) designation. Requires that early voting by personal appearance by a voter who is voting outside the early voting polling place be conducted pursuant to Section 64.009 (Voter Unable to Enter Polling Place). Deletes existing text requiring that early voting by personal appearance by a voter who is voting outside the early voting polling place under Section 64.009 be conducted in accordance with this section if the voting at the early voting polling place is by voting machine. Deletes existing Subsection (b) requiring the early voting clerk to furnish each accepted voter with the early voting ballot used for voting by mail and the official ballot envelope. Deletes existing Subsection (c) requiring the voter to mark the ballot and seal it in the envelope. Deletes existing Subsection (d) requiring the voter to give it to the clerk immediately after sealing the ballot envelope. Deletes existing text requiring the clerk to indicate on the envelope that the ballot was voted outside the polling place under this section before depositing the envelope in the ballot box. Deletes existing Subsection (e) authorizing SOS to provide for the use of envelopes or other containers instead of ballot boxes in which to deposit ballots voted under this section.

SECTION 11. Amends Section 86.014(a), Election Code, to provide that a copy of an application for a ballot to be voted by mail is not available for public inspection, except to the voter seeking to verify that the information pertaining to the voter is accurate, until the first business day after the election day of the latest occurring election for which the application is submitted.

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SECTION 12. Amends Section 141.031, Election Code, by adding Subsection (d), to authorize SOS to prescribe a different form for an application for a place on the ballot for each of the following: an office of the federal government, an office of the state government, or an office of a political party.

SECTION 13. Amends Section 144.005(a), Election Code, to prohibit, notwithstanding any other law outside this code, an application from being filed earlier than the 30th day before the date of the filing deadline.

SECTION 14. Amends Section 145.096(a), Election Code, to require that, except as provided in Subsection (b) (relating to a candidate's name being placed on a runoff election ballot if the candidate dies or is declared ineligible before runoff election day), a candidate's name be placed on the ballot if the candidate is declared ineligible after 5 p.m. of the third day after the deadline for filing the candidate's application for a place on the ballot, rather than 5 p.m. of the second day before the beginning of early voting by personal appearance, in an election subject to Section 145.092(a) (relating to the date on which a person may not withdraw from an election).

SECTION 15. 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 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) withdraws or is declared ineligible during the period prescribed by Subdivision (2), and at the time of the withdrawal or declaration of ineligibility no other candidate has made an application that complies with the applicable requirements for the office sought by the withdrawn or ineligible candidate.

(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 date of the regular filing deadline, rather than the 81st day before general primary election day. Provides that an application filed by mail with the state chair is not timely if received later than 5 p.m. of the fifth day after the date of the regular filing deadline, rather than the 81st day before general primary election day.

SECTION 16. 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 before the 79th day before general primary election day.

SECTION 17. 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 counted and entered on the official

election returns in the same manner as for other candidates if the 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 18. Amends Section 201.052, Election Code, as follows:

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Sec. 201.052. DATE OF ELECTION. (a) Requires that a special election to fill a vacancy be held on the first authorized uniform election date occurring on or after the 45th day, rather than the 30th day, after the date the election is ordered.

(b) Requires that the election be held on the first authorized uniform election date occurring on or after the earliest date that the election could be held under that law, if a law outside this code authorizes the holding of the election on a date earlier than the 45th day, rather than the 30th day, after the date of the order.

SECTION 19. Amends Section 201.054(a), Election Code, as follows:

(a) Requires a candidate's application for a place on a special election ballot to be filed not later than 5 p.m. of the 45th day, rather than the 31st day, before election day, if election day is on or after the 57th day, rather than the 36th day, and before the 70th day after the date the election is ordered; or 5 p.m. of the 62nd day before election day, if election day is on or after the 70th day after the date the election is ordered. Deletes existing text requiring that a candidate's application for a place on a special election ballot be filed not later than 5 p.m. of a day fixed by the authority ordering the election, which day is prohibited from being earlier than the fifth day after the date the election is ordered and not later than the 20th day before election day, if election day is before the 36th day after the date the election is ordered.

SECTION 20. 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 the vacancy occurs on or before the fifth 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; in addition to certain other circumstances.

(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 if the vacancy occurs after the 10th day before the date of the regular filing deadline. Deletes existing text requiring that an application for the unexpired term be filed 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 earlier, if the vacancy occurs after the 10th day before the date of the regular filing deadline.

SECTION 21. Amends Section 215.002, Election Code, to add the actual expense incurred in producing a printed ballot image from an electronic voting system record to a list of certain costs of a recount that are assessable against a person.

SECTION 22. Amends Section 62.113, Government Code, by adding Subsection (e), to require that the information required to be filed with SOS under this section be filed electronically. Authorizes SOS to waive this requirement on application for a waiver submitted by the clerk.

SECTION 23. Repealer: Section 86.001(f) (relating to the clerk rejecting an application for an election if the clerk is not serving as early voting clerk for that election and providing notice of the rejection to the applicant), Election Code.

SECTION 24. Effective date: September 1, 2013.

#### **EFFECTIVE DATE**

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