

## **BILL ANALYSIS**

C.S.H.B. 3118  
By: Goldman  
Elections  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

Interested parties explain that the canvass of votes in primary and runoff elections is the last step in verifying the results from election night ballot counting, including military and provisional ballots. The parties point out that the county chairs and the party executive committees must convene to count and verify the final numbers, which must then be turned in to the county's election official who in turn provides the information to the secretary of state. The parties also point out that a significant amount of paper and mail is used in each step of this process to relay the information and that the same process is used at the state party level for elections of statewide and district positions. The parties suggest that the canvass process could be modernized by eliminating the need for executive committees to meet and by creating a simple process for each county chair to post on the secretary of state website the final counts next to a candidate's name. Additionally, the entity preparing the ballots for the general election could also use the information from the secretary of state website for the same purpose, making this website the one-stop shop for all election information in Texas. C.S.H.B. 3118 seeks to provide for this modernized process.

### **CRIMINAL JUSTICE IMPACT**

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that rulemaking authority is expressly granted to the secretary of state in SECTIONS 2, 3, and 5 of this bill.

### **ANALYSIS**

C.S.H.B. 3118 amends the Election Code to replace the requirement that the county executive committee canvass the precinct election returns for a county with the requirement that the county chair or at least one member of the county executive committee selected by that committee canvass the returns. The bill removes a requirement for the local canvass to be conducted at the county seat and requires that the hour specified by the county chair for convening for such purpose be posted on the county party website or the commissioners court bulletin board if the county organization of the political party does not maintain a website and that the official primary election results be posted to the secretary of state's website.

C.S.H.B. 3118 requires the county chair to certify the nominees for county and precinct offices for placement on the general election ballot by posting on the secretary of state's website a notation next to the name and address of each such nominee, removes the requirement that the county chair certify in writing such a name and address, and similarly requires the state chair to certify nominees for statewide and district offices by posting on the secretary of state's website the name and address of each such nominee rather than requiring written certification. The bill

requires the county chair to execute and file an affidavit with the county clerk and the state chair to execute and file an affidavit with the secretary of state, each certifying that the returns posted on the secretary of state's website are the correct and complete returns, and authorizes the secretary of state to adopt by rule a process to allow a county chair and the state chair to submit their respective affidavits digitally.

C.S.H.B. 3118 requires the secretary of state to develop appropriate notations to describe the status of each candidate and specifies certain notations required for inclusion. The bill requires the county chair to update the notations that describe the status of each candidate after each general primary and runoff primary election and after any candidate's withdrawal or death and subsequent replacement on the ballot. The bill requires all notations to be completed and accurate on the date prescribed by the secretary of state by rule to ensure that an authority printing general election ballots may rely on the information. The bill requires the authority preparing the official general election ballot, after the notations have been placed on the website and the affidavit has been filed, to use the list of candidates named on the secretary of state's website as the nominees for general election in preparing the general election ballot.

C.S.H.B. 3118 removes the requirement that the county chair prepare county election returns for the statewide and district offices voted on in a primary election in the same manner as the county returns for a general election are prepared by the county clerk and instead requires the county chair to prepare and post those returns next to the name of each primary candidate listed on the secretary of state's website. The bill authorizes the secretary of state by rule to determine the data that is required to be posted.

C.S.H.B. 3118 changes from the state executive committee to the state chair the entity required to canvass the county election returns and conduct the state canvass for the general primary election. The bill removes a requirement for the state chair to deliver the tabulation to the secretary of state not later than the 20th day after the date the state canvass is complete for the secretary of state to preserve it for the period specified for preserving precinct election records and instead requires the secretary of state to preserve and archive all of the information pertaining to candidates and the canvass results on the secretary's website. The bill changes from the county chair to the county clerk the entity required to prepare a report for each primary election of the number of 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.

C.S.H.B. 3118 repeals statutory provisions relating to procedures for conducting a local or state canvass, requiring the results of a local canvass and certification of nominees for county and precinct offices for placement on a general election ballot to be delivered to the appropriate persons not later than the 20th day after the date the local canvass is complete for records custody and ballot preparation purposes, requiring the county chair to deliver the county election returns and retain a copy in the same manner as the county returns for a general election are delivered and retained by the county clerk, with a certain exception, and requiring the tabulation of results to be a separate document, except for the tabulation of results for the offices of governor and lieutenant governor.

C.S.H.B. 3118 repeals the following Election Code provisions:

- Sections 172.116(c), (d), and (e)
- Section 172.117(b)
- Section 172.119(b)
- Sections 172.120(c), (d), and (e)

## EFFECTIVE DATE

September 1, 2015.

## COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 3118 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and formatted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

### INTRODUCED

SECTION 1. Sections 172.116(a), (b), and (g), Election Code, are amended to read as follows:

(a) The county chair and, if available, at least one member of the county executive committee selected by the county executive committee shall canvass the precinct election returns for the county.

(b) The county chair and any selected county executive committee member shall convene to conduct the local canvass [~~at the county seat~~] on the second Thursday after election day at the hour specified by the county chair and posted on the county party website or the commissioners court bulletin board if the county organization of the political party does not maintain a website.

(g) The official result of the primary election, except for offices canvassed at the state level, is determined from the local canvass of precinct returns and shall be posted to the secretary of state's website.

SECTION 2. Section 172.117, Election Code, is amended.

**No equivalent provision.**

### HOUSE COMMITTEE SUBSTITUTE

SECTION 1. Sections 172.116(a), (b), and (g), Election Code, are amended to read as follows:

(a) The county chair or at least one member of the county executive committee selected by the county executive committee shall canvass the precinct election returns for the county.

(b) The county chair or the selected county executive committee member shall convene to conduct the local canvass [~~at the county seat~~] on the second Thursday after election day at the hour specified by the county chair and posted on the county party website or the commissioners court bulletin board if the county organization of the political party does not maintain a website.

(g) The official result of the primary election, except for offices canvassed at the state level, is determined from the local canvass of precinct returns and shall be posted to the secretary of state's website.

SECTION 2. Same as introduced version.

SECTION 3. Section 172.119, Election Code, is amended by amending Subsection (a) and adding Subsection (a-1) to read as follows:

(a) The county chair shall prepare and post next to the name of each primary candidate listed on the secretary of state's website county election returns for the statewide and district offices voted on in a primary election [~~in the same manner as the county returns for a general election are prepared by the county clerk except that separate returns for the offices of governor and lieutenant governor are not prepared~~].

(a-1) The secretary of state by rule may determine what data is required to be

posted, including:  
(1) votes cast by mail;  
(2) votes cast early;  
(3) votes cast on election day;  
(4) votes cast by federal postcard applicants  
or other military or overseas voters;  
(5) provisional ballots; or  
(6) total votes only.

SECTION 3. Sections 172.120(a), (b), (b-1), (f), and (h), Election Code, are amended.

SECTION 4. Same as introduced version.

SECTION 4. Section 172.122(a), Election Code, is amended.

SECTION 5. Same as introduced version.

SECTION 5. Section 172.124(a), Election Code, is amended.

SECTION 6. Same as introduced version.

SECTION 6. The following provisions of the Election Code are repealed:

SECTION 7. The following provisions of the Election Code are repealed:

(1) Sections 172.116(c), (d), and (e);  
(2) Section 172.117(b); and

(1) Sections 172.116(c), (d), and (e);  
(2) Section 172.117(b);

(3) Sections 172.120(c), (d), and (e).

(3) Section 172.119(b); and  
(4) Sections 172.120(c), (d), and (e).

SECTION 7. This Act takes effect September 1, 2015.

SECTION 8. Same as introduced version.