

BILL ANALYSIS

Senate Research Center

C.S.S.B. 864
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Business & Commerce
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Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

The current Property Code requires that members of a property owners' association (POA) sign their names to any vote cast. However, this provision threatens the secret ballot, which has been a vital element of the democratic process. S.B. 864 looks to extend the protections of a secret ballot to a POA by allowing the POA board to adopt rules to allow secret ballots.

The bill proposes to amend Section 209.0058 of the Property Code by amending Subsection (a) and adding Subsection (d). Subsection (a) will keep in place the requirement for a member of the property owners' association to write and sign any vote cast, except as provided by Subsection (d). Subsection (d) provides that a property owners' association may adopt rules that would allow voting by a secret ballot by its members. In doing so, the association must take measures to ensure that those who cast a secret ballot cannot cast more votes than they are eligible to cast, and the association counts every vote cast by a member that is eligible to cast a vote.

C.S.S.B. 864 amends current law relating to secret ballots in a property owners' association election or vote.

RULEMAKING AUTHORITY

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

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 209.0058, Property Code, by amending Subsection (a) and adding Subsection (d), as follows:

(a) Requires that any vote cast in an election or vote by a member of a property owners' association be in writing and signed by the member, except as provided by Subsection (d). Makes a nonsubstantive change.

(d) Authorizes a property owners' association to adopt rules to allow voting by secret ballot by members of the association. Requires the association to take measures to reasonably ensure that:

(1) a member cannot cast more votes than the member is eligible to cast in an election or vote; and

(2) the association counts every vote cast by a member that is eligible to cast a vote.

SECTION 2. Effective date: upon passage or September 1, 2015.