

## **BILL ANALYSIS**

C.S.S.B. 1073  
By: Zaffirini  
Elections  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

Currently, a candidate for public office in Texas must provide the candidate's residence address on the candidate's application for a place on the ballot. Observers note that the address, together with other information provided by the candidate, is posted on a publicly viewable website maintained by the secretary of state. In addition to other concerns, the publication of a candidate's home address has raised significant privacy concerns. C.S.S.B. 1073 revises the law relating to requirements for a candidate's application or nomination for a place on the ballot and related procedures.

### **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 8 and 12 of this bill.

### **ANALYSIS**

C.S.S.B. 1073 amends the Election Code to require an application for a place on the ballot from a candidate for public office to include, among other required elements, a public mailing address and any available electronic mail address at which the candidate receives correspondence relating to the candidate's campaign. The bill requires the authority receiving an application for a place on the ballot to return the application to the applicant as incomplete if the applicant submits payment of a fee that is returned for insufficient funds. The bill authorizes the applicant to resubmit the application before the end of the filing period, but prohibits the payment of the filing fee from being made by check from the same account as that of the payment previously returned for insufficient funds. The bill establishes, if a filing fee payment is returned for insufficient funds after the end of the filing period, that the application is not considered to be timely filed and requires the receiving authority to inform the applicant of the application's invalidity. The bill repeals provisions requiring candidates applying for a place on the ballot for certain judicial offices who choose to pay the filing fee to also file a petition and increasing the petition requirements for certain candidates who do not choose to pay the filing fee.

C.S.S.B. 1073 requires the authority with whom an application for a place on the general primary election ballot is filed to inform the candidate that the candidate's public mailing address and, if provided on the application, the candidate's electronic mail address will be posted by the secretary of state on the secretary's publicly viewable website. The bill expands the information required to be posted on the website to include a public mailing address for each certified candidate and any available electronic mail address at which the candidate receives correspondence relating to the candidate's campaign.

C.S.S.B. 1073 revises a provision requiring the county executive committee to canvass the precinct election returns for the county to instead require the county chair and, if available, at least one member of the county executive committee selected by the county executive committee to canvass the precinct election returns for the county. The bill removes the specification that the local canvass must be convened at the county seat and specifies that the applicable hour for convening the canvass is 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. The bill requires the official result of the primary election that is determined from the local canvass of precinct returns, except for offices canvassed at the state level, to be posted to the secretary of state's website.

C.S.S.B. 1073 revises the method by which the county chair shall certify the name and address of each primary candidate who is nominated for a county or precinct office for placement on the general election ballot from certification in writing to certification by posting on the secretary of state's website a notation next to the name and address of each primary candidate. The bill requires the county chair to execute and file with the county clerk an affidavit certifying that the returns posted on the website are the correct and complete returns and authorizes the secretary of state to adopt by rule a process to allow the chair to submit the affidavit digitally. The bill requires the secretary of state to develop appropriate notations to describe the status of each candidate and specifies the notations to be included. The bill requires the county chair to update the notations after each general primary and runoff primary election and, after any withdrawal or death of a candidate and subsequent replacement of the candidate on the ballot, to update the notation on the website. 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 required affidavit has been filed, to use the list of candidates named on the website as the nominees for general election in preparing the general election ballot.

C.S.S.B. 1073 transfers the responsibility for canvassing county election returns from the state executive committee to the state chair and clarifies that the state chair is required to complete the state canvass of the runoff primary election not later than the third Saturday after runoff primary election day. The bill removes a provision requiring the state chair to deliver the tabulation of the canvass to the secretary of state and preserve it for the period for preserving the precinct election results and instead requires the secretary of state to preserve and archive on the secretary's website all of the information pertaining to candidates and the canvass results.

C.S.S.B. 1073 revises the method by which the state chair shall certify the name and address of each primary candidate who is nominated for a statewide or district office from certification in writing to certification by posting on the secretary of state's website the name and address of each primary candidate. The bill requires the state chair to execute and file with the secretary of state an affidavit certifying that the returns posted on the website are the correct and complete returns. The bill authorizes the secretary of state to adopt by rule a process to allow the chair to submit the affidavit digitally. The bill transfers the responsibility for preparing, for each primary election, a report of the number of votes received in each election precinct by each candidate for certain state or federal offices from the county chair to the county clerk.

C.S.S.B. 1073, in a provision set to expire January 1, 2017, requires the secretary of state, as soon as practicable but not later than December 31, 2016, to complete the modifications to the secretary of state's website as necessary to enable compliance with the bill's provisions.

C.S.S.B. 1073 repeals the following Election Code provisions:

- Sections 172.021(e) and (g)
- Sections 172.116(c), (d), and (e)

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

**EFFECTIVE DATE**

September 1, 2015.

**COMPARISON OF SENATE ENGROSSED AND SUBSTITUTE**

While C.S.S.B. 1073 may differ from the engrossed in minor or nonsubstantive ways, the following comparison is organized and formatted in a manner that indicates the substantial differences between the engrossed and committee substitute versions of the bill.

**SENATE ENGROSSED**

SECTION 1. Section 141.031(a), Election Code, is amended to read as follows:  
 (a) A candidate's application for a place on the ballot that is required by this code must:  
 (1) be in writing;  
 (2) be signed and sworn to by the candidate and indicate the date that the candidate swears to the application;  
 (3) be timely filed with the appropriate authority; and  
 (4) include:  
 (A) the candidate's name;  
 (B) the candidate's occupation;  
 (C) the office sought, including any place number or other distinguishing number;  
 (D) an indication of whether the office sought is to be filled for a full or unexpired term if the office sought and another office to be voted on have the same title but do not have place numbers or other distinguishing numbers;  
 (E) a statement that the candidate is a United States citizen;  
 (F) a statement that the candidate has not been determined by a final judgment of a court exercising probate jurisdiction to be:  
 (i) totally mentally incapacitated; or  
 (ii) partially mentally incapacitated without the right to vote;  
 (G) a statement that the candidate has not been finally convicted of a felony from which the candidate has not been pardoned or otherwise released from the resulting disabilities;  
 (H) the candidate's date of birth;  
 (I) the candidate's residence address or, if the residence has no address, the address at which the candidate receives mail and a concise description of the location of the

**HOUSE COMMITTEE SUBSTITUTE**

SECTION 1. Section 141.031(a), Election Code, is amended to read as follows:  
 (a) A candidate's application for a place on the ballot that is required by this code must:  
 (1) be in writing;  
 (2) be signed and sworn to by the candidate and indicate the date that the candidate swears to the application;  
 (3) be timely filed with the appropriate authority; and  
 (4) include:  
 (A) the candidate's name;  
 (B) the candidate's occupation;  
 (C) the office sought, including any place number or other distinguishing number;  
 (D) an indication of whether the office sought is to be filled for a full or unexpired term if the office sought and another office to be voted on have the same title but do not have place numbers or other distinguishing numbers;  
 (E) a statement that the candidate is a United States citizen;  
 (F) a statement that the candidate has not been determined by a final judgment of a court exercising probate jurisdiction to be:  
 (i) totally mentally incapacitated; or  
 (ii) partially mentally incapacitated without the right to vote;  
 (G) a statement that the candidate has not been finally convicted of a felony from which the candidate has not been pardoned or otherwise released from the resulting disabilities;  
 (H) the candidate's date of birth;  
 (I) the candidate's residence address or, if the residence has no address, the address at which the candidate receives mail and a concise description of the location of the

candidate's residence;

(J) the candidate's length of continuous residence in the state and in the territory from which the office sought is elected as of the date the candidate swears to the application;

(K) the statement: "I, \_\_\_\_\_, of \_\_\_\_\_ County, Texas, being a candidate for the office of \_\_\_\_\_, swear that I will support and defend the constitution and laws of the United States and of the State of Texas"; ~~and~~

(L) a statement that the candidate is aware of the nepotism law, Chapter 573, Government Code;

(M) a mailing address and any available electronic mail address at which the candidate receives correspondence relating to the candidate's campaign; and

(N) if the candidate maintains a campaign-related website, the website address.

No equivalent provision.

SECTION 2. Subchapter B, Chapter 172, Election Code, is amended by adding Section 172.0221 to read as follows:

Sec. 172.0221. NOTICE TO CANDIDATE REGARDING POSTING OF CERTAIN INFORMATION. The authority with whom an application is filed must inform the candidate that the candidate's mailing address and, if provided on the application, the candidate's electronic mail address and campaign-related website address will be

candidate's residence;

(J) the candidate's length of continuous residence in the state and in the territory from which the office sought is elected as of the date the candidate swears to the application;

(K) the statement: "I, \_\_\_\_\_, of \_\_\_\_\_ County, Texas, being a candidate for the office of \_\_\_\_\_, swear that I will support and defend the constitution and laws of the United States and of the State of Texas"; ~~and~~

(L) a statement that the candidate is aware of the nepotism law, Chapter 573, Government Code; and

(M) a public mailing address and any available electronic mail address at which the candidate receives correspondence relating to the candidate's campaign.

SECTION 2. Section 172.021, Election Code, is amended by adding Subsections (b-1) and (b-2) to read as follows:

(b-1) Except as provided by Subsection (b-2), the authority receiving an application shall return it to the applicant as incomplete if the applicant submits payment of a fee that is returned for insufficient funds. The applicant may resubmit the application before the end of the filing period, but payment of the filing fee may not be made in the form of a check from the same account as that of the payment previously returned for insufficient funds.

(b-2) If a payment of a filing fee is returned for insufficient funds after the end of the filing period, the application is not considered to be timely filed, and the authority receiving the application shall inform the applicant that the application was not valid.

SECTION 3. Subchapter B, Chapter 172, Election Code, is amended by adding Section 172.0221 to read as follows:

Sec. 172.0221. NOTICE TO CANDIDATE REGARDING POSTING OF CERTAIN INFORMATION. The authority with whom an application is filed must inform the candidate that the candidate's public mailing address and, if provided on the application, the candidate's electronic mail address will be posted by the secretary of

posted by the secretary of state on the secretary's publicly viewable website.

SECTION 3. Section 172.028(a), Election Code, is amended to read as follows:

(a) Except as provided by Subsection (c), the state chair shall certify to the secretary of state for placement on the general primary election ballot the name of each candidate who files with the chair an application that complies with Section 172.021(b). The secretary of state shall post on the secretary's Internet website that is viewable by the public;

(1) the certified list; and

(2) for each certified candidate:

(A) the mailing address and, if provided by the candidate, the electronic mail address at which the candidate receives correspondence relating to the candidate's campaign; and

(B) if provided by the candidate, the website address of any campaign-related website maintained by the candidate.

No equivalent provision.

No equivalent provision.

state on the secretary's publicly viewable website.

SECTION 4. Section 172.028(a), Election Code, is amended to read as follows:

(a) Except as provided by Subsection (c), the state chair shall certify to the secretary of state for placement on the general primary election ballot the name of each candidate who files with the chair an application that complies with Section 172.021(b). The secretary of state shall post on the secretary's Internet website that is viewable by the public;

(1) the certified list; and

(2) for each certified candidate, the public mailing address and, if provided by the candidate, the electronic mail address at which the candidate receives correspondence relating to the candidate's campaign.

SECTION 5. The heading to Section 172.116, Election Code, is amended to read as follows:

Sec. 172.116. LOCAL CANVASS RELATING TO CANDIDATES WHO FILED AN APPLICATION FOR A PLACE ON THE BALLOT IN ACCORDANCE WITH THE GENERAL REQUIREMENTS.

SECTION 6. 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.

No equivalent provision.

SECTION 7. The heading to Section 172.117, Election Code, is amended to read as follows:

Sec. 172.117. CERTIFICATION OF NOMINEES WHO FILED AN APPLICATION FOR A PLACE ON THE BALLOT IN ACCORDANCE WITH THE GENERAL REQUIREMENTS FOR COUNTY AND PRECINCT OFFICES FOR PLACEMENT ON GENERAL ELECTION BALLOT.

No equivalent provision.

SECTION 8. Section 172.117, Election Code, is amended by amending Subsection (a) and adding Subsections (a-1), (a-2), and (a-3) to read as follows:

(a) The county chair shall certify by posting on the secretary of state's website a notation next to [in writing for placement on the general election ballot] the name and address of each primary candidate who is nominated for a county or precinct office for placement on the general election ballot. The chair shall execute and file with the county clerk an affidavit certifying that the returns posted on the secretary of state's website are the correct and complete returns. The secretary of state may adopt by rule a process to allow the chair to submit the affidavit digitally.

(a-1) The secretary of state shall develop appropriate notations to describe the status of each candidate. The notations shall include:

- (1) "filed";
- (2) "withdrew";
- (3) "lost primary";
- (4) "in runoff";
- (5) "lost runoff";
- (6) "deceased"; or
- (7) "nominee for general election."

(a-2) The county chair shall update the notations after each general primary and runoff primary election. After any withdrawal or death of a candidate, and subsequent replacement of the candidate on the ballot, the chair shall update the notation on the website. All notations must 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.

(a-3) After the notations have been placed on the website and the affidavit has been filed as required by Subsection (a), the authority preparing the official general election ballot shall 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.

No equivalent provision.

SECTION 9. The heading to Section 172.120, Election Code, is amended to read as follows:

Sec. 172.120. STATE CANVASS RELATING TO CANDIDATES WHO FILED AN APPLICATION FOR A PLACE ON THE BALLOT IN ACCORDANCE WITH THE GENERAL REQUIREMENTS.

No equivalent provision.

SECTION 10. Sections 172.120(a), (b), (b-1), (f), and (h), Election Code, are amended to read as follows:

(a) The state chair [~~executive committee~~] shall canvass the county election returns.

(b) The state chair [~~executive committee~~] shall [~~convene to~~] conduct the state canvass for the general primary election not later than:

(1) the second Sunday after general primary election day, for an election in which three or more candidates are seeking election to the same office; or

(2) the 22nd day after general primary election day, for an election not described by Subdivision (1).

(b-1) Not later than the third Saturday after runoff primary election day, the [~~committee shall convene at the call of the~~] state chair shall complete [~~to conduct~~] the state canvass of the runoff primary election.

(f) The [~~Not later than the 20th day after the date the state canvass is completed, the state chair shall deliver the committee's tabulation to the~~] secretary of state[, ~~who~~] shall preserve and archive on the secretary's website all of the information pertaining to candidates and the canvass results [~~it for the period for preserving the precinct election records~~].

(h) The official result of the primary election for offices canvassed by the state chair [~~executive committee~~] is determined from its canvass of the county returns.

No equivalent provision.

SECTION 11. The heading to Section

172.122, Election Code, is amended to read as follows:

Sec. 172.122. CERTIFICATION OF NOMINEES WHO FILED AN APPLICATION FOR A PLACE ON THE BALLOT IN ACCORDANCE WITH THE GENERAL REQUIREMENTS FOR STATEWIDE AND DISTRICT OFFICES TO SECRETARY OF STATE.

No equivalent provision.

SECTION 12. Section 172.122(a), Election Code, is amended to read as follows:

(a) The state chair shall certify by posting on the secretary of state's website [~~in writing as the party's nominee~~] the name and address of each primary candidate who is nominated for a statewide or district office. The state chair shall execute and file with the secretary of state an affidavit certifying that the returns posted on the secretary of state's website are the correct and complete returns. The secretary of state may adopt by rule a process to allow the chair to submit the affidavit digitally.

No equivalent provision.

SECTION 13. The heading to Section 172.124, Election Code, is amended to read as follows:

Sec. 172.124. REPORTING PRECINCT RESULTS TO SECRETARY OF STATE RELATING TO CANDIDATES WHO FILED AN APPLICATION FOR A PLACE ON THE BALLOT IN ACCORDANCE WITH THE GENERAL REQUIREMENTS.

No equivalent provision.

SECTION 14. Section 172.124(a), Election Code, is amended to read as follows:

(a) For each primary election, the county clerk [~~chair~~] shall prepare a 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, as provided by Section 67.017 for the report of precinct results for a general election.

No equivalent provision.

SECTION 15. The following provisions of the Election Code are repealed:

- (1) Sections 172.021(e) and (g);
- (2) Sections 172.116(c), (d), and (e);
- (3) Section 172.117(b); and
- (4) Sections 172.120(c), (d), and (e).



No equivalent provision.

SECTION 16. As soon as practicable, but not later than December 31, 2016, the secretary of state shall complete the modifications to the secretary of state's website as necessary to enable compliance with the changes in law made by this Act. This section expires January 1, 2017.

SECTION 4. This Act takes effect September 1, 2015.

SECTION 17. Same as engrossed version.