

BILL ANALYSIS

C.S.H.B. 2691
By: Bonnen, Greg
Elections
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Interested parties note the lack of specific guidelines regarding the appointment of election judges in counties using countywide polling places and contend that these counties would benefit from certain state guidance. C.S.H.B. 2691 seeks to establish guidelines for the appointment of election judges in these counties.

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

ANALYSIS

C.S.H.B. 2691 amends the Election Code to require a county chair of a qualifying political party to provide a list of names of persons eligible for appointment as election judges for each county commissioner's precinct. The bill requires the election judges of countywide polling places established under the countywide polling place program to be appointed from that list for the county commissioner's precinct in which the countywide polling place is located in compliance with the general procedures for county election judge appointment, except that the bill requires the commissioners court, in appointing a person from the list, to determine the political party with the highest number of votes in direct proportion to the percentage of precincts located in each county commissioner's precinct won by that party. The bill establishes that the commissioners court is not required to make the appointments for such polling places based on specific polling locations or precincts and that a presiding election judge or alternate presiding judge for such a polling place is not required to serve in a polling place located in the precinct in which the judge resides. The bill authorizes more than one presiding election judge or alternate presiding judge to be selected from the same precinct to serve in polling places not located in the precinct in which the judges reside. The bill authorizes the county chairs to submit, and authorizes the commissioners court to preapprove, the appointment of more presiding election judges or alternate presiding judges than necessary to fill available positions. The bill authorizes the county clerk to select an individual whose appointment was preapproved by the commissioners court to fill a vacancy in a position that was held by an individual from the same political party. The bill establishes that nothing in these provisions other than a judge's party affiliation precludes a county clerk from placing an election officer at a countywide polling place based on the need for services at that location.

C.S.H.B. 2691 removes the condition that the required appointment by the county chair of a political party holding a primary election of the judges for each precinct in which the primary

election will be held in the county be made with the approval of the county executive committee and requires such a county chair to fill any vacancy that occurs in the position of presiding election judge or alternate presiding judge.

C.S.H.B. 2691 includes among the required information in the separate notices of appointment given to each presiding election judge and alternate presiding judge by the authority responsible for distributing the election supplies any available telephone number and email address of the presiding election judge or alternate presiding judge, as applicable for each notice.

C.S.H.B. 2691 requires a county clerk to provide in writing to the county chair of each political party after the commissioners court appoints a presiding election judge and an alternate presiding judge a list of the individuals appointed by the commissioners court.

C.S.H.B. 2691 replaces the hourly rate capped at \$7 to which an election judge, an early voting clerk, and a deputy early voting clerk in charge of an early voting polling place are entitled as compensation for attending the public county training program with an hourly rate fixed by the appropriate authority in an amount that is equal to or greater than the federal minimum wage.

C.S.H.B. 2691 requires the secretary of state to implement a program to allow each commissioners court participating in the countywide polling place program to eliminate county election precinct polling places and establish countywide polling places for any runoff election resulting from an election held on the uniform election date in May. The bill requires a county, in adopting a methodology for determining where each countywide polling place will be located, to ensure that each county commissioner's precinct contains at least one countywide polling place and the total number of permanent branch and temporary branch polling places open for voting in a county commissioner's precinct does not exceed more than twice the number of permanent branch and temporary branch polling places in another county commissioner's precinct. The bill requires countywide polling places, to the greatest extent possible, to be located in a precinct where the political party that received the greatest number of votes in the last gubernatorial election is the same political party with which the presiding judge is affiliated.

C.S.H.B. 2691 requires an early voting clerk to select election officers for a primary election, other than a joint primary election, for the main early voting polling place and any branch polling place in the same manner that a county clerk selects election officers for a general election for state and county officers, except that the early voting clerk is required to prescribe the deadline by which a county chair of a political party must submit names of persons eligible to serve as election officers during early voting.

C.S.H.B. 2691 repeals provisions relating to the furnishing of precinct boundary information to presiding election judges and alternate presiding judges.

C.S.H.B. 2691 repeals Sections 32.006(b) and 32.010, Election Code.

EFFECTIVE DATE

September 1, 2017.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 2691 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. Section 32.002, Election Code, is amended by adding Subsection (c-1) to read as follows:

(c-1) Judges of countywide polling places established under Section 43.007 must be appointed in compliance with Subsection (c) from the persons whose names were submitted for appointment by the county chairs in a manner that is directly proportional to the countywide vote received in the last gubernatorial election, except that the commissioners court is not required to make the appointments based on specific polling locations or precincts, a presiding judge or alternate presiding judge is not required to serve in a polling place located in the precinct in which the judge resides, and more than one presiding judge or alternate presiding judge may be selected from the same precinct to serve in polling places not located in the precinct in which the judges reside. If possible, a countywide polling place shall be located in a precinct where the presiding judge is from the political party that received the greatest number of votes in the last gubernatorial election. The county chairs may submit, and the commissioners court may preapprove, the appointment of more presiding judges or alternate presiding judges than necessary to fill available positions. The county clerk may select an individual whose appointment was preapproved by the commissioners court to fill a vacancy in a position that was held by an individual from the same political party. Other than a judge's party affiliation, nothing in this subsection precludes a county clerk from placing an election officer at a countywide polling place based on the need for services at that location.

SECTION 2. Section 32.006(a), Election Code, is amended.

SECTION 3. Section 32.009(d), Election Code, is amended.

SECTION 4. Subchapter A, Chapter 32, Election Code, is amended by adding

HOUSE COMMITTEE SUBSTITUTE

SECTION 1. Section 32.002, Election Code, is amended by adding Subsection (c-1) to read as follows:

(c-1) For purposes of this subsection, the county chair shall provide a list of names of persons eligible for appointment as election judges for each county commissioner's precinct. Judges of countywide polling places established under Section 43.007 must be appointed from the list of names of persons for the county commissioner's precinct in which the countywide polling place is located in compliance with Subsection (c) except that in appointing a person from the list the commissioners court shall determine the political party with the highest number of votes in direct proportion to the percentage of precincts located in each county commissioner's precinct won by that party, the commissioners court is not required to make the appointments based on specific polling locations or precincts, a presiding judge or alternate presiding judge is not required to serve in a polling place located in the precinct in which the judge resides, and more than one presiding judge or alternate presiding judge may be selected from the same precinct to serve in polling places not located in the precinct in which the judges reside. The county chairs may submit, and the commissioners court may preapprove, the appointment of more presiding judges or alternate presiding judges than necessary to fill available positions. The county clerk may select an individual whose appointment was preapproved by the commissioners court to fill a vacancy in a position that was held by an individual from the same political party. Other than a judge's party affiliation, nothing in this subsection precludes a county clerk from placing an election officer at a countywide polling place based on the need for services at that location.

SECTION 2. Same as introduced version.

SECTION 3. Same as introduced version.

SECTION 4. Same as introduced version.

Section 32.012.

SECTION 5. Section 32.114(e), Election Code, is amended.

SECTION 6. Section 43.007(a), Election Code, is amended to read as follows:

(a) The secretary of state shall implement a program to allow each commissioners court participating in the program to eliminate county election precinct polling places and establish countywide polling places for:

(1) each general election for state and county officers;

(2) each election held on the uniform election date in May and any resulting runoff;

(3) each election on a proposed constitutional amendment;

(4) each primary election and runoff primary election if:

(A) the county chair or county executive committee of each political party participating in a joint primary election under Section 172.126 agrees to the use of countywide polling places; or

(B) the county chair or county executive committee of each political party required to nominate candidates by primary election agrees to use the same countywide polling places; and

(5) each election of a political subdivision located in the county that is held jointly with an election described by Subdivision (1), (2), (3), or (4).

SECTION 5. Same as introduced version.

SECTION 6. Section 43.007, Election Code, is amended by amending Subsection (a) and adding Subsections (m) and (n) to read as follows:

(a) The secretary of state shall implement a program to allow each commissioners court participating in the program to eliminate county election precinct polling places and establish countywide polling places for:

(1) each general election for state and county officers;

(2) each election held on the uniform election date in May and any resulting runoff;

(3) each election on a proposed constitutional amendment;

(4) each primary election and runoff primary election if:

(A) the county chair or county executive committee of each political party participating in a joint primary election under Section 172.126 agrees to the use of countywide polling places; or

(B) the county chair or county executive committee of each political party required to nominate candidates by primary election agrees to use the same countywide polling places; and

(5) each election of a political subdivision located in the county that is held jointly with an election described by Subdivision (1), (2), (3), or (4).

(m) In adopting a methodology under Subsection (f), the county must ensure that:

(1) each county commissioner's precinct contains at least one countywide polling place; and

(2) the total number of permanent branch and temporary branch polling places open for voting in a county commissioner's precinct does not exceed more than twice the number of permanent branch and temporary branch polling places in another county commissioner's precinct.

(n) To the greatest extent possible, countywide polling places shall be located in a precinct where the political party that received the greatest number of votes in the last gubernatorial election is the same political party with which the presiding

judge is affiliated.

SECTION 7. Section 85.009(b), Election Code, is amended.

SECTION 7. Same as introduced version.

SECTION 8. Subchapter A, Chapter 85, Election Code, is amended.

SECTION 8. Same as introduced version.

SECTION 9. Sections 32.006(b) and 32.010, Election Code, are repealed.

SECTION 9. Same as introduced version.

SECTION 10. This Act takes effect September 1, 2017.

SECTION 10. Same as introduced version.