

BILL ANALYSIS

C.S.S.B. 44
By: Zaffirini
Elections
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Interested parties have expressed concern regarding the potential for unnecessary and costly challenges to petitions accompanying applications for a place on an election ballot. Furthermore, these parties contend that the absence of a signature requirement for a petition filed by candidates for various judicial offices allows the unseemly possibility of last-minute filing by non-serious candidates with poor track records and little engagement with the community. C.S.S.B. 44 seeks to prevent frivolous petition challenges and to ensure the viability of judicial candidates by revising related requirements with respect to an application for a place on an election ballot.

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.S.B. 44 amends the Election Code to establish that the authority with whom an application for a place on the ballot is filed, for purposes of reviewing such an application for compliance, is only required to review a petition accompanying such an application for facial compliance with the applicable requirements as to form, content, and procedure, unless the petition is challenged. The bill changes the deadline for challenging an application for a place on the ballot for compliance with the applicable requirements as to form, content, and procedure from the day before the beginning of early voting by personal appearance for the election for which the application is made to the day before any ballot to be voted early by mail is mailed to an address in the applicable authority's jurisdiction for such an election. The bill requires such a challenge to state with specificity how the application does not comply with the applicable requirements as to form, content, and procedure and limits the authority's review of the challenge to the specific items challenged and any response filed with the authority by the challenged candidate.

C.S.S.B. 44 requires a candidate for the following offices who chooses to pay the appropriate filing fee for an application for a place on the general primary election ballot to also accompany the application with a petition for a place on the ballot as a candidate for judicial office that complies with the requirements prescribed for a valid petition: chief justice or justice of a court of appeals that serves a court of appeals district in which a county with a population of more than one million is wholly or partly situated, district or criminal district judge of a court in a judicial district wholly contained in a county with a population of more than 1.5 million, judge of a statutory county court in a county with a population of more than 1.5 million, or justice of the

peace in a county with a population of more than 1.5 million. The bill sets the minimum number of signatures required to appear on such a petition at 250 and increases by 250 the minimum number of signatures required for a petition filed by a candidate for such offices in lieu of the filing fee. The bill prohibits signatures on a petition filed by a candidate for such offices applying for a place on the ballot from being obtained on the grounds of a county courthouse or courthouse annex.

C.S.S.B. 44 requires a candidate for the office of chief justice or justice, supreme court, or presiding judge or judge, court of criminal appeals, who chooses to pay the filing fee to also accompany the application with a petition that complies with the requirements prescribed for a valid petition but sets the minimum number of signatures required to appear on such a petition at 50 from each court of appeals district.

EFFECTIVE DATE

September 1, 2017.

COMPARISON OF SENATE ENGROSSED AND SUBSTITUTE

While C.S.S.B. 44 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

No equivalent provision.

HOUSE COMMITTEE SUBSTITUTE

SECTION 1. Section 141.032(c), Election Code, is amended to read as follows:

(c) If an application is accompanied by a petition, the petition is considered part of the application, and the review shall be completed as soon as practicable after the date the application is received by the authority. However, the petition is not considered part of the application for purposes of determining compliance with the requirements applicable to each document, and a deficiency in the requirements for one document may not be remedied by the contents of the other document. Unless the petition is challenged, the authority is only required to review the petition for facial compliance with the applicable requirements as to form, content, and procedure.

No equivalent provision.

SECTION 2. Section 141.034, Election Code, is amended by amending Subsection (a) and adding Subsection (c) to read as follows:

(a) An application for a place on the ballot may not be challenged for compliance with the applicable requirements as to form, content, and procedure after the day before any ballot to be voted early by mail is

mailed to an address in the authority's jurisdiction [the beginning of early voting by personal appearance] for the election for which the application is made.

(c) A challenge must state with specificity how the application does not comply with the applicable requirements as to form, content, and procedure. The authority's review of the challenge is limited to the specific items challenged and any response filed with the authority by the challenged candidate.

SECTION 1. Section 172.021, Election Code, is amended.

SECTION 3. Same as engrossed version.

SECTION 2. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2017.

SECTION 4. This Act takes effect September 1, 2017.