

BILL ANALYSIS

C.S.H.B. 2640
By: Cortez
Elections
Committee Report (Substituted)

BACKGROUND AND PURPOSE

It has been suggested that the laws regarding the process by which political parties select their candidates for public office and govern their respective organizations are in need of clarification and modernization. C.S.H.B. 2640 seeks to address this issue by revising provisions relating to participation in political party affairs, party governance, primary elections, and party conventions.

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 20 and 24 of this bill.

ANALYSIS

C.S.H.B. 2640 amends the Election Code to revise provisions relating to participation in political party affairs, party governance, primary elections, and party conventions.

C.S.H.B. 2640 includes each election for a district office, a county office, or a precinct office among the types of elections that trigger the requirement for a county clerk to prepare a report of the number of votes, including early voting votes cast by mail and early voting votes cast by personal appearance, received in each county election precinct for each candidate. The bill removes the requirement for the presiding officer of the canvassing authority to prepare and deliver a report of the precinct results as contained in the election register.

C.S.H.B. 2640 authorizes the secretary of state to deliver the certification of nominees for statewide and district offices for placement on the general election ballot by notifying the authority responsible for having the official general election ballot prepared in each county in which the candidate's name is to appear on the ballot that the candidates posted on the secretary of state's website are the candidates certified. The bill requires the secretary of state to deliver a copy of the certification to the authority by email, in addition to the other methods of delivering the certification.

C.S.H.B. 2640, with respect to party affiliation procedures:

- changes one of the circumstances that renders a person as affiliated with a political party from the person's application for and receipt of an early voting or limited primary ballot to be voted by mail to the person's return of such a ballot voted by mail;
- requires an election officer to stamp a voter registration certificate with a party affiliation or provide an affiliation certificate unless, not later than the 90th day before the date of

the primary election, the county chair notifies the county clerk that the chair does not require a stamped voter registration certificate or affiliation certificate for verification of attendance at a precinct convention;

- subjects the requirement for the early voting clerk in a general primary election to provide an affiliation certificate with each early voting or limited ballot to be voted by mail to the county chair providing such notice to the early voting clerk;
- replaces the requirement that a committee member or an authorized person, after administering the oath regarding party affiliation taken at a party precinct convention, request the person's registration certificate and stamp the party's name in the party affiliation space and, if the person does not present a registration certificate, issue the person an affiliation certificate with an authorization for the applicable person to stamp the party's name in the party affiliation space unless the party name has already been stamped in the space; and
- requires the temporary chair on the person's request to issue the person an affiliation certificate if the person does not present a registration certificate.

C.S.H.B. 2640, with respect to the organization of parties nominating by primary election and the applicable executive committees:

- revises provisions relating to the composition of the state executive committee;
- establishes that write-in candidates are not permitted for county chair or precinct chair unless a state executive committee authorizes write-in candidates;
- revises provisions relating to the manner in which a vacancy on a county executive committee is filled, including provisions authorizing the state executive committee by rule to require a specific deadline for filling vacancies on a county executive committee, district executive committee, or precinct executive committee before that committee fills a vacancy in nomination for public office;
- includes among the members of the district executive committee for a district comprising only a part of a single county and for a district situated in more than one county and among the members of the precinct executive committee for a commissioners precinct or for a justice precinct containing three or more county election precincts the members of the county executive committee who reside in the district or precinct, as applicable; and
- provides for the review of an application for a place on the general primary election ballot to determine whether it complies with certain requirements for the candidate's name to be placed on the general primary election ballot, the notice to a candidate if the candidate's application does not comply with the applicable requirements, and a certain limitation on the challenge of an application.

C.S.H.B. 2640 requires the authority to post the public notice of an extended filing deadline following the withdrawal, death, or ineligibility of a candidate on the applicable authority's website, if one is maintained, and to deliver a copy of the notice to, as applicable:

- the secretary of state, to be posted on the secretary of state's website, for a candidate for an office filled by voters of more than one county; or
- the county clerk, to be posted on the county clerk's website, for an office filled by voters of a single county.

C.S.H.B. 2640, with respect to a ballot in a primary election:

- authorizes a person designated by a county chair to conduct the drawing for the order of names on a general primary election ballot and sets out the eligibility requirements for a designee;
- authorizes the county chair or the county clerk to produce and number such ballots by hand; and

- requires the secretary of state to adopt rules for conducting a hand count of such ballots.

C.S.H.B. 2640, with respect to the conduct of a primary election:

- specifies that the requirement that a notice containing certain information be posted, and remain posted, at each applicable outside door of a polling place before the opening of the polls applies both during the early voting period and on election day;
- replaces the requirement that a notice of a primary election and a notice of consolidated precincts, if applicable, be posted on the party's website, if it maintains a website, with the requirement that the notice be posted instead on the county's website, if it maintains a website;
- gives a county chair of a political party the option of contracting with the authority conducting a primary election to supply a notice containing certain party information to the authority conducting the election;
- establishes that the authority's preparation of copies is a necessary expense incurred in connection with a primary election;
- revises the provision giving the authority the option of delivering a completed tabulation to the general custodian of election records or posting the tabulation on the county's or secretary of state's website by specifying that the tabulation is required to be posted on both websites if required by secretary of state rule;
- requires a county clerk to prepare a list of registered voters for a party convention unless, not later than the 90th day before the date of the primary, the county chair notifies the county clerk that the chair does not require a list;
- revises the provision with respect to the list of registered voters for a party convention, for a county that records the acceptance of a voter electronically, by authorizing the state chair, in addition to the county chair, to request an electronic document listing the persons who voted in the party primary, the unique identifier assigned to each person, and whether the person voted early in person or by mail or whether the person voted in person on election day and by requiring the county clerk to provide such a document not later than the date of the local general primary canvass;
- conditions the requirement that the presiding judge retain and provide at the appropriate time the list of registered voters to be used in the party's conventions on the list of registered voters for a party convention having been produced as requested by the county chair;
- specifies that the county clerk is required to submit electronically to the secretary of state a report of certain results of the local canvass relating to candidates who filed an application for a place on the ballot in accordance with the general requirements and sets out the eligibility requirements for a designee appointed by the county chair;
- includes "accepted" and "rejected" among the notations the secretary of state is required to develop to describe the status of each primary candidate;
- excepts the county chair from the requirement to update those notations after each general primary and runoff primary election if the secretary of state's website automatically updates the notations based on election returns;
- replaces the requirement that the state chair post next to a candidate's name on the secretary of state's website whether the person lost in the primary or is in a runoff with a requirement for the secretary of state to update the status of each candidate as appropriate by posting such information;
- requires the secretary of state to create a system for the state chair to submit the certification to the secretary of state for the posting of those updates; and

- specifies that the requirement that a county clerk prepare a report of the number of votes, including early votes, received by each candidate is applicable to candidates other than candidates for a party office.

C.S.H.B. 2640, with respect to primary election financing:

- revises the condition under which the state chair may accept money into the state primary fund on behalf of a county party by specifying that such acceptance is conditioned on the consent of the secretary of state and the county chair or the county executive committee;
- authorizes a state chair or the designee of a state chair to enter into an agreement with a county chair under which the state chair will act as a fiscal agent for the county party and requires the secretary of state to prescribe the form of such an agreement;
- requires, if the state chair acts as the fiscal agent for a county party, the delivery of the completed agreement by the state chair to the secretary of state, the payment of any filing fee for a place on a ballot to the state party for deposit in the state primary fund not later than five days after receipt of the filing fee, and the county chair or county executive committee to make a request to enter into a contract with the county elections administrator to conduct primary elections in the county; and
- exempts the county party from statutory provisions creating a county primary fund for each county executive committee of a political party holding a primary election.

C.S.H.B. 2640, with respect to precinct conventions:

- repeals a requirement for the county chair to deliver to the county clerk certain notice before the date of the precinct conventions;
- authorizes a political party by rule to allow a county to hold precinct conventions during the county convention on the same day and at the same place as the county convention;
- authorizes the state executive committee by rule to adopt an alternate process for the requirement that the precinct chair prepare a list containing the name and residence address of each person who is admitted to participate in the precinct convention; and
- removes the requirement for the county chair and the temporary chair of a senatorial district convention to deliver a notice of a county convention and the senatorial district convention, respectively.

C.S.H.B. 2640, with respect to a presidential primary election:

- requires the state chair of each political party holding a presidential primary election to submit the information to the secretary of state for posting on the secretary of state's website;
- specifies that the manner in which the state chair is required to certify the name of each presidential candidate who qualifies for a place on the presidential primary election ballot is in the same manner as a candidate filing for statewide, district, and county offices;
- removes the requirement for the state chair to deliver such certification;
- requires the secretary of state to create a system for submitting such information to the secretary of state for posting on the secretary of state's website; and
- requires the rules adopted for a presidential primary election by a party or the rules already in existence be posted on the party's website, in addition to being filed with the secretary of state, before a party is entitled to have its presidential and vice-presidential nominees on the general election ballot.

C.S.H.B. 2640 repeals the following provisions of the Election Code:

- Section 171.054(g)

- Section 174.023(b)
- Section 174.064(b)

EFFECTIVE DATE

September 1, 2019.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 2640 may differ from the original in minor or nonsubstantive ways, the following summarizes the substantial differences between the introduced and committee substitute versions of the bill.

The substitute revises and clarifies a bill provision that expands the offices to which the provision requiring the county clerk to report precinct results, after each election for an office other than a party office, to the secretary of state applies:

- by retaining the statutory specification that the requirement is applicable to each election for a statewide office and for the office of U.S. representative, state senator, or state representative;
- by adding to that list of applicable offices a district office, county office, and precinct office;
- by clarifying that the report of the number of early voting votes received in each such election for such offices includes early votes cast by mail and early voting votes cast by personal appearance; and
- by including a conforming change that removes the requirement for the presiding officer of the canvassing authority to prepare and deliver a report of the precinct results as contained in the election register.

The substitute includes a provision requiring the secretary of state to deliver a copy of the certification of nominees for statewide and district offices for placement on the general election ballot to the applicable authority by email.

The substitute, with respect to party affiliation procedures:

- does not include a specification that an early voting or limited primary ballot voted by mail returned by person that renders a person as affiliated with a political party is a marked ballot;
- makes certain revisions to the bill provision setting out procedures relating to the requirement that an election officer stamp a voter registration certificate with a party affiliation or provide an affiliation certificate;
- does not include a provision authorizing the administration of a certain oath of party affiliation by a temporary chair at a precinct convention;
- includes a specification that the party's name may be stamped in the party affiliation space; and
- requires the temporary chair, if a person does not present a registration certificate, to issue the person an affiliation certificate on the person's request.

The substitute does not include the following:

- provisions providing for the permanency of a political party's rules and a provision establishing that a state executive committee may establish procedures to adopt rules by any method approved by a two-thirds vote of the executive committee;

- the repeal of certain provisions relating to the requirement that the state chair file certain rules on electoral affairs with the secretary of state;
- certain revisions to the composition of a county executive committee;
- a specification relating the method by which any changes in the party's county or precinct chairs must be reported to the secretary of state;
- an exception to the requirement that the party offices of county chair and precinct chair be listed on the primary election ballot in a certain manner; and
- the repeal of certain provisions relating to signature requirements for the petitions that candidates for certain judicial offices must submit with their respective applications for a place on the general primary election ballot.

The substitute revises the bill provision regarding write-in candidates for county chair or precinct chair by changing from a county executive committee to a state executive committee the entity with the authority to authorize write-in candidates for county chair or precinct chair.

The substitute includes the following:

- provisions authorizing the state executive committee by rule to require a specific deadline for filling vacancies on a district, county, or precinct executive committee before the applicable committee fills a vacancy in nomination for public office;
- provisions providing for the review of an application for a place on a general primary election ballot and notice related to that review and providing for a limitation on the challenge of an application;
- an option for a county chair of a political party to contract with the authority conducting a primary election to supply a notice containing certain party information;
- certain revisions to the bill provision setting out procedures relating to the preparation of a list of a registered voters by a county clerk for a party convention; and
- an authorization for the local canvass relating to certain candidates who filed an application for a place on the ballot and the drawing for the order of names on a general primary election ballot to be conducted by a certain designee appointed by the county chair.

The substitute does not include a provision regarding the online posting of appointments to vacancies in the offices of county chair and precinct chair. The substitute does not include certain provisions:

- regarding limiting state compensation for polling places and election personnel;
- requiring a political party to adopt rules for recordkeeping of precinct convention business, removing a requirement that the convention chair prepare, sign, and make a copy of information regarding delegates and any alternates selected by the convention, and repealing certain provisions to the removal of that requirement; and
- requiring the state executive committee to adopt rules for the preparation and submission of delegates to the state chair and removing a requirement that the chair of a county or senatorial district convention prepare and sign a list of information regarding delegates and any alternates selected by the convention.

The substitute includes the repeal of Section 171.054(g), Election Code.