

BILL ANALYSIS

C.S.H.B. 1735
By: Faircloth
Elections
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Interested parties note the lack of a procedure for removing, replacing, or reassigning an election judge or election clerk who is being disruptive in a polling location or disobeying election law. Additionally, interested parties note there is a lack of standing for a county election officer to seek relief for an incorrect ballot determination by the early voting ballot board. These parties also raise concerns that the current oath for the early voting ballot board and central counting station does not reflect the relevant positions. C.S.H.B. 1735 seeks to provide for these procedures and to update those oaths.

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. 1735 amends the Election Code to authorize a county clerk, following an oral warning to the election judge or the election clerk and with the concurrence of the county chair of the same political party with which the judge or election clerk is affiliated or aligned, to remove, replace, or reassign an election judge or election clerk who causes a disruption in a polling location or wilfully disobeys the provisions of the Election Code. The bill requires a resulting vacancy for an election judge to be filled in the same manner as an emergency appointment and a resulting vacancy for an election clerk to be filled by the presiding judge. The bill requires the presiding judge to appoint a replacement election clerk who is affiliated or aligned with the same political party as the original clerk, if possible.

C.S.H.B. 1735 requires members of the early voting ballot board and election officers appointed as part of the establishment and organization of a central counting station to repeat a specific oath aloud relating to faithfully performing the person's duty as an officer of the election and guarding the purity and integrity of the election. The bill requires a member or officer who arrives after the oath is made to repeat the oath aloud before performing any duties as a member or election officer and requires each member or officer, following administration of the oath, to be issued a form of identification, prescribed by the secretary of state, to be displayed by the member or officer during the member's hours of service on the board or during the officer's hours of service at the central counting station, respectively.

C.S.H.B. 1735 authorizes a county election officer who determines a ballot was incorrectly rejected or accepted by the early voting ballot board before the time set for convening the canvassing authority to petition a district court for injunctive or other relief as the court

determines appropriate. The bill requires the county election officer, in an election ordered by the governor or by a county judge, to confer with and establish the agreement of the county chair of each political party before petitioning the district court.

EFFECTIVE DATE

September 1, 2017.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 1735 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 (g) to read as follows:

(g) Following an oral warning to the election judge and notice to the county chair of the same political party with which the judge is affiliated or aligned, the county clerk may remove, replace, or reassign an election judge who causes a disruption in a polling location or wilfully disobeys the provisions of this code. A vacancy created under this subsection shall be filled in the same manner as an emergency appointment under Section 32.007.

No equivalent provision.

SECTION 2. Subchapter A, Chapter 87, Election Code, is amended.

SECTION 3. Subchapter G, Chapter 87, Election Code, is amended by adding Section 87.127 to read as follows:
Sec. 87.127. RESOLUTION OF

HOUSE COMMITTEE SUBSTITUTE

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

(g) Following an oral warning to the election judge and with the concurrence of the county chair of the same political party with which the judge is affiliated or aligned, the county clerk may remove, replace, or reassign an election judge who causes a disruption in a polling location or wilfully disobeys the provisions of this code. A vacancy created under this subsection shall be filled in the same manner as an emergency appointment under Section 32.007.

SECTION 2. Section 32.034, Election Code, is amended by adding Subsection (f) to read as follows:

(f) Following an oral warning to the election clerk and with the concurrence of the county chair of the same political party with which the election clerk is affiliated or aligned, the county clerk may remove, replace, or reassign an election clerk who causes a disruption in a polling location or wilfully disobeys the provisions of this code. A vacancy created under this subsection shall be filled by the presiding judge, who shall appoint a replacement election clerk who is affiliated or aligned with the same political party as the original clerk, if possible.

SECTION 3. Same as introduced version.

SECTION 4. Subchapter G, Chapter 87, Election Code, is amended by adding Section 87.127 to read as follows:
Sec. 87.127. RESOLUTION OF

INCORRECT DETERMINATION BY EARLY VOTING BALLOT BOARD. (a) If a county election officer, as defined by Section 31.091, determines a ballot was incorrectly rejected by the early voting ballot board before the time set for convening the canvassing authority, the county election officer may petition a district court for injunctive or other relief as the court determines appropriate.

(b) In an election ordered by the governor or by a county judge, the county election officer must confer with and establish the agreement of the county chair of each political party before petitioning the district court.

SECTION 4. Subchapter A, Chapter 127, Election Code, is amended.

SECTION 5. This Act takes effect September 1, 2017.

INCORRECT DETERMINATION BY EARLY VOTING BALLOT BOARD. (a) If a county election officer, as defined by Section 31.091, determines a ballot was incorrectly rejected or accepted by the early voting ballot board before the time set for convening the canvassing authority, the county election officer may petition a district court for injunctive or other relief as the court determines appropriate.

(b) In an election ordered by the governor or by a county judge, the county election officer must confer with and establish the agreement of the county chair of each political party before petitioning the district court.

SECTION 5. Same as introduced version.

SECTION 6. Same as introduced version.