

- SUBJECT:** Modifying the powers and duties of certain election officers
- COMMITTEE:** Elections — committee substitute recommended
- VOTE:** 6 ayes — Laubenberg, Israel, R. Anderson, Fallon, Reynolds, Swanson
0 nays
1 absent — Larson
- WITNESSES:** For — George Hammerlein, Harris County Clerk's Office; Glen Maxey, Texas Democratic Party; Bill Fairbrother, Texas Republican County Chairmen's Association; Bill Sargent; (*Registered, but did not testify*: Cary Roberts, County and District Clerks' Association of Texas; Katija Gruene, Green Party of Texas; Chris Davis, Texas Association of Elections Administrators)

Against — (*Registered, but did not testify*: Brad Parsons)

On — Alan Vera, Harris County Republican Party Ballot Security Committee; (*Registered, but did not testify*: Jacquelyn Callanen, Bexar County Elections Administrator; Ashley Fischer, Secretary of State)
- BACKGROUND:** Election Code, ch. 32 requires each election precinct to have a presiding election judge and an alternate presiding judge affiliated with different political parties serving one year terms. These judges are appointed by the commissioners court and are selected from a list of potential judges submitted by their respective political party.

Sec. 32.007 prescribes an emergency appointment process if a situation arises where neither the presiding judge nor the alternate presiding judge can serve on election day. An emergency appointment must be made by the presiding officer of the appointing authority after making a reasonable effort to consult with the appropriate party chair. The newly appointed judge should be of the same political party as the original judge, if possible.

DIGEST:

CSHB 1735 would give the county clerk authority to remove, replace, or reassign an election judge or an election clerk who caused a disruption in a polling place or wilfully disobeyed the provisions of the Election Code. A county clerk could take this action only if he or she gave the election judge or clerk an oral warning and conferred with the county chair of the same political party with which the judge or clerk is affiliated or aligned. If this created an election judge vacancy, it would be filled in the same manner as an emergency appointment. If this created an election clerk vacancy, the presiding judge would have to appoint a replacement who was affiliated or aligned with the same political party as the original clerk, if possible.

Central counting station officers and early voting ballot board members would have to repeat the following oath aloud: "I swear (or affirm) that I will faithfully perform my duty as an officer of the election and guard the purity and integrity of the election." Following the oath, each member would be issued a form of identification, prescribed by the secretary of state, to be worn by the member during his or her hours of service.

The bill would allow county election officers to petition a district court for injunctive or other relief if they determined that a ballot was incorrectly rejected or accepted by the early voting ballot board before the time set for convening the canvassing authority. In an election ordered by the governor or a county judge, the county election officer would have to confer with and establish the agreement of the county chair of each political party before petitioning the district court.

This bill would take effect September 1, 2017.

SUPPORTERS
SAY:

CSHB 1735 would clarify the process of removing, replacing, or reassigning election workers causing disruptions or wilfully disobeying the election code. Current law provides no direction and has left several counties to deal with these situations without any guidance. The method described in the bill has been successfully used to resolve this problem. Providing the county election official with standing to request an

independent judicial review when he or she discovered an error would address a problem that has occurred in some districts.

The bill would modify the language of the oath taken by members of the early voting ballot board and the central counting station to reflect the jobs they actually perform. The current oath is general and deals with not swaying voters to vote in a certain way, which is not consistent with their job duties as these individuals do not deal directly with the voting public.

While some have voiced concerns that conferring with party chairs could leave in place unruly election workers, it is important to note that the county clerk does not select election judges or clerks. Judges and clerks are nominated by political parties and selected by the commissioner's court by precinct. Conferring with the party chair ensures that county clerks cannot abuse the authority they would be given.

OPPONENTS
SAY:

CSHB 1735 would require the county clerk to first concur with a party chair before removing, reassigning, or replacing an election clerk or judge. While some suggest that this provides safety against abuse of the authority given to the county clerk, it could also leave in place an election judge or election clerk who is causing disruption in the polling place or is disobeying the election code.

The bill would allow a county clerk to remove an election judge or an election clerk for "causing a disruption," which is too vague and could be interpreted multiple ways. There are imaginable instances in which an election judge or clerk may raise his or her voice due to provocation from a person within the polling place. Providing a definition for "causing a disruption" would provide clarity.