

BILL ANALYSIS

Senate Research Center
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C.S.H.B. 1695
By: Denny (Nelson)
State Affairs
5/20/2003
Committee Report (Substituted)

DIGEST AND PURPOSE

C.S.H.B. 1695 revises the Election Code to clarify and update election procedures.

RULEMAKING AUTHORITY

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

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 1.006, Election Code, as follows:

Sec. 1.006. EFFECT OF WEEKEND OR HOLIDAY. (a) Created from existing text.

(b) Provides that if the last day for performance of an act is extended under Subsection (a), the extended date is used to determine any other dates and deadlines, and the dates or times of any related procedures, that are expressly required to be made on a date or at a time determined in relation to the last day for performance of the act.

(c) Provides that a declaration of ineligibility of a candidate is considered to be the performance of an act under this section for purposes of causing the candidate's name to be omitted from the ballot.

(d) Provides that the filing of a document, including a withdrawal request or resignation, is considered to be the performance of an act under this section for purposes of creating a vacancy to be filled at a subsequent election.

(e) Provides that the death of a person is not considered to be the performance of an act under this section.

SECTION 2. Amends Section 2.025, Election Code, as follows:

(a) Requires, except as otherwise provided by this code, rather than Subsection (b), a runoff election to be held not earlier than the 20th or later than the 45th, rather than 30th, day after the date the final canvass of the main election is completed.

(b) Authorizes a runoff election date later than the period prescribed by Subsection (a) to be prescribed by a home-rule city charter. Deletes text pertaining to runoffs.

(c) Provides that this section, rather than Subsection (b), supersedes a law outside this subchapter to the extent of a conflict notwithstanding Section 2.022.

SECTION 3. Amends Section 2.051(b), Election Code, to provide that in the case of an election in which any members of the political subdivision's governing body are elected from territorial units such

as single-member districts, this subchapter applies to the election in a particular territorial unit if each candidate whose name is to appear on the ballot in that territorial unit is unopposed and no at-large proposition or opposed at-large race is to appear on the ballot. Provides that this subchapter applies to an unopposed at-large race in such an election regardless of whether an opposed race is to appear on the ballot in a particular territorial unit. Makes conforming changes.

SECTION 4. Amends Section 2.053(c), Election Code, to require a certificate of election to be issued to each candidate in the same manner and at the same time as provided for a candidate elected at the election. Requires the candidate to qualify for the office in the same manner as provided for a candidate elected at the election.

SECTION 5. Amends Section 13.072(c), Election Code, to delete an exception as provided by Subsection (e).

SECTION 6. Amends Section 13.073, Election Code, by adding Subsection (c), to provide that if the registrar rejects an application for incompleteness but receives a completed application not later than the 10th day after the date the notice is delivered under Subsection (a) or the date the incomplete application is returned under Subsection (b), as applicable, the original date of submission of the incomplete application is considered to be the date of submission to the registrar for the purpose of determining the effective date of registration.

SECTION 7. Amends Section 15.025, Election Code, as follows:

Sec. 15.025. New heading: EFFECTIVE DATE OF CERTAIN CHANGES IN REGISTRATION INFORMATION. (a) Provides that, except as provided by Subsections (b) and (d), the registration of a voter described by this subsection whose information, rather than residence, is changed on the registration records becomes effective as to the change on a certain date. Removes references to another county election precinct in the same county. Makes conforming changes.

(b) Provides that a change in registration information covered by this section is effective for purposes of early voting if it will be effective on election day.

(c) Provides that, for purposes of determining the effective date of a change in registration information covered by this section, a document submitted by mail is considered to be submitted to the registrar on the date it is placed with postage prepaid and properly addressed in the United States mail. Provides that the date indicated by the post office cancellation mark is considered to be the date the document was placed in the mail unless proven otherwise.

(d) Provides that if the 30th day before the date of an election is a Saturday, Sunday, or legal state or national holiday, the document is considered to be timely if it is submitted to the registrar on or before the next regular business day.

SECTION 8. Amends Sections 16.033(c) and (d), Election Code, as follows:

(c) Requires the notice to include a warning that the voter's registration is subject to cancellation if the registrar does not receive an appropriate reply on or before the 30th, rather than the 60th, day after the date the notice is mailed.

(d) Requires the registrar, except as provided by Subsection (e), to cancel a voter's registration if no reply is received from the voter on or before the 30th, rather than 60th, day after the date the notice is mailed to the voter under Subsection (b).

SECTION 9. Amends Sections 16.0332(a) and (b), Election Code, as follows:

(a) Provides that proof of United States citizenship can be in the form of a certified copy of the voter's birth certificate, United States passport, or certificate of naturalization or any other form prescribed by the secretary of state.

(b) Provides that if a voter fails to submit to the registrar proof of citizenship on or before the 30th, rather than 31st, day after the date the notice is mailed, the registrar is required to cancel the voter's registration.

SECTION 10. Amends Section 16.036(a), Election Code, to include Section 16.0332 in a list of statutory references pertaining to cancellation of a voter's registration.

SECTION 11. Amends Section 19.001(a), Election Code, to include Section 16.0332 in a list of statutory references pertaining to a statement containing information about voter registrations canceled.

SECTION 12. Amends Section 32.091, Election Code, by amending Subsection (a) and adding Subsection (c), as follows:

(a) Includes an exception as provided by Subsection (c).

(c) Provides that for a primary or runoff primary election, the minimum hourly rate is the greater of the maximum rate provided by Subsection (a) or, if the election officer attended a training program as provided by Subchapter F, \$7.

SECTION 13. Amends Section 32.111, Election Code, as follows:

(a) Requires the secretary of state to, rather than authorizes the governing body of a political subdivision that holds elections or the county executive committee of a political party that holds primary elections to, adopt standards of training, rather than minimum training standards, in election law and procedure for presiding or alternate election judges, develop materials for a standardized curriculum for that training, and distribute the materials as necessary to the governing bodies of political subdivisions that hold elections and to each county executive committee of a political party that holds a primary election.

(b) Authorizes the training standards to include required attendance at appropriate training programs or the passage of an examination at the end of a training program.

SECTION 14. Amends Section 32.112, Election Code, to authorize the governing body of a political subdivision to appropriate funds to compensate its election judges, early voting clerk, and deputy early voting clerks in charge of early voting polling places for attending a training program required under Section 32.111, at an hourly rate not to exceed the maximum rate of compensation of an election judge for services rendered at a precinct polling place or, if applicable, for attending a training program under Section 32.114.

SECTION 15. Amends Sections 32.113(a) and (b), Election Code, as follows:

(a) Makes conforming changes.

(b) Makes a conforming change.

SECTION 16. Amends Section 32.114, Election Code, by amending Subsection (a) and adding Subsection (e), as follows:

(a) Makes conforming changes.

(e) Entitles an election judge, early voting clerk, or deputy early voting clerk in charge of an

early voting polling place to compensation for attending the training program at an hourly rate not to exceed \$7.

SECTION 17. Amends Section 67.003, Election Code, to require each local canvassing authority to convene to conduct the local canvass at the time set by the canvassing authority's presiding officer on the seventh day after election day for an election of a political subdivision that is held jointly with an election of a county or one or more other political subdivisions under an election services contract with the county election officer. Makes conforming changes.

SECTION 18. Amends Section 83.006(b), Election Code, to provide that to be eligible for appointment as early voting clerk under this section, a person must meet the requirements for eligibility for service as a presiding election judge, except that an appointee who is a permanent employee of the political subdivision and a qualified voter of any territory is not required to be a qualified voter of the political subdivision.

SECTION 19. Amends Section 83.007(b), Election Code, to provide that to be eligible for appointment as early voting clerk under this section, a person must meet the requirements for eligibility for service as a presiding election judge, except that an appointee who is a permanent employee of the authority ordering the election and a qualified voter of any territory is not required to be a qualified voter of the territory covered by the election.

SECTION 20. Amends Section 83.032(b), Election Code, to provide that for a temporary deputy to be eligible for appointment as a deputy early voting clerk under this section, the temporary deputy must meet the requirements for eligibility for service as a presiding election judge, except that an appointee who is a permanent employee of the county or city, as applicable, and a qualified voter of any territory is not required to be a qualified voter of the county or city, as applicable.

SECTION 21. Amends Section 84.032, Election Code, by amending Subsection (b) and adding Subsection (e), as follows:

(b) Includes an exception as provided by Subsection (e).

(e) Authorizes an applicant to also submit a request at any time after the early voting ballot is returned to the early voting clerk as a marked ballot and before the ballot is delivered to the early voting ballot board by appearing in person and executing an affidavit that the applicant did not mark the ballot.

SECTION 22. Amends Section 85.001(c), Election Code, to provide that if the date prescribed by Subsection (a) or (b) for beginning the period is a Saturday, Sunday, or legal state holiday, the early voting period begins on the next regular business day. Deletes a provision that the early voting take place on the Saturday or Sunday if ordered under Section 85.006.

SECTION 23. Amends Section 86.003(c), Election Code, to provide that the address to which the balloting materials must be addressed is the address at which the voter is registered to vote, or the registered mailing address if different, unless the ground for voting by mail meets certain criteria.

SECTION 24. Amends Section 86.007(d), Election Code, to require a marked ballot voted by mail that arrives after the time prescribed by Subsection (a) to be counted if the ballot arrives at the address on the carrier envelope not later than an election of a political subdivision that is held jointly with an election of a county or one or more political subdivisions under an election services contract with the county election officer, or the second day after the date of an election other than an election described by Paragraph (A).

SECTION 25. Amends Section 87.0241, Election Code, by amending Subsection (b) and adding Subsection (c), as follows:

(b) Prohibits the board from counting early voting ballots until the polls open on election day, or in an election conducted by an authority of a county with a population of 100,000 or more or conducted jointly with such a county, the end of the period for early voting by personal appearance.

(c) Requires the secretary of state to prescribe any procedures necessary for implementing this section in regard to elections described by Subsection (b)(2).

SECTION 26. Amends Section 87.027, Election Code, by amending Subsections (a), (c), (d), (i), and (j) and adding Subsection (a-1), as follows:

(a) Provides an exception as provided by Subsection (a-1). Deletes a provision stating that Section 87.0271 supersedes this section to the extent of a conflict.

(a-1) Requires a signature verification committee to be appointed in the general election for state and county officers on submission to the early voting clerk of a written request for the committee by at least 15 registered voters of the county. Requires the request to be submitted not later than the preceding October 1, and provides that a request submitted by mail is considered to be submitted at the time of its receipt by the clerk.

(c) Requires the appropriate authority, not later than the fifth day after the date the early voting clerk issues the order calling for the appointment of a signature verification committee, or not later than October 15 for a committee required under Subsection (a-1), to appoint the members of the committee and designate one of the appointees as chair, subject to Subsection (d). Makes a conforming change.

(d) Requires each county chair of a political party with a nominee or aligned candidate on the ballot, in an election in which party alignment is indicated on the ballot, to submit to the appointing authority a list of names of persons eligible to serve on the signature verification committee. Requires the authority to appoint at least two persons from each list to serve as members of the committee. Requires the same number of members to be appointed from each list. Requires the authority to appoint the chair of the committee from the list provided by the political party whose nominee for governor received the most votes in the county in the most recent gubernatorial general election. Requires a vacancy on the committee to be filled by appointment from the original list or from a new list submitted by the appropriate county chair.

(i) Makes nonsubstantive changes.

(j) Makes nonsubstantive changes.

SECTION 27. Section 87.041(b), Election Code, to authorize a ballot to be accepted only if certain conditions are met, including that the address to which the ballot was mailed to the voter is an address that is otherwise required by Sections 84.002 and 86.003.

SECTION 28. Amends Section 87.101, Election Code, as follows:

Sec. 87.101. New heading: DELIVERY OF BALLOTS TO COUNTING STATION. Removes the designation of Subsection (a). Requires the early voting ballot board, on the direction of the presiding judge, to deliver to the central counting station, rather than open, the container for the early voting electronic system ballots that are to be counted by automatic tabulating equipment at a central counting station. Requires the board to make the delivery without opening the container and in accordance with the procedure applicable to electronic system ballots cast at a precinct polling place. Deletes text regarding Section 85.032(b), removal of ballots from the container and envelopes, and deletes Subsection (b) requiring that the early voting ballot board prepare the ballots for delivery to the central counting station.

SECTION 29. Amends Section 87.1231(a), Election Code, to remove the designation for Subsection (a).

SECTION 30. Amends Section 87.125(a), Election Code, to require the early voting ballot board to convene to count ballots voted by mail described by Section 86.007(d) at the time set by the presiding judge of the board, on one of three dates.

SECTION 31. Amends Section 102.003(b), Election Code, to authorize an application to be submitted after the last day of the period for early voting by personal appearance and before 5 p.m., rather than 2 p.m., on election day.

SECTION 32. Amends Section 104.003, Election Code, to require voting under this chapter to be conducted on election day, beginning at 7 a.m., rather than 8 a.m., and concluding at 7 p.m., rather than 2 p.m., at the main early voting polling place. Deletes text designating voting times in an election in which mechanical voting machines are used.

SECTION 33. Amends Section 112.002, Election Code, by amending Subsection (a) and adding Subsections (c) and (d), as follows:

(a) Provides that, after changing residence to another county, a person is eligible to vote a limited ballot by personal appearance during the early voting period or by mail if certain conditions are met. Deletes the date of the election being not more than 90 days after the new residence is established as a condition.

(c) Requires a voter, before being accepted for voting under this chapter, to execute a statement including certain information.

(d) Requires a statement executed under Subsection (c) to be submitted to an election officer at the main early voting polling place, if the person is voting by personal appearance, or with the person's application for a ballot to be voted by mail, if the person is voting by mail.

SECTION 34. Amends Section 127.066(c), Election Code, to require the box, after it is sealed, to be delivered to the central counting station by two election officers, rather than in accordance with the procedure for delivering ballot box no. 3 to the central counting station. Requires the officers to deliver the box to the presiding judge of the central counting station or to the judge's designee.

SECTION 35. Amends Chapter 144, Election Code, by adding Section 144.006, as follows:

Sec. 144.006. **FILING DEADLINE FOR DECLARED WRITE-IN CANDIDATE.**
Requires a declaration of write-in candidacy, except as otherwise provided by law, to be filed not later than 5 p.m. of the fifth day after the date an application for a place on the ballot is required to be filed in an election in which the filing deadline for an application for a place on the ballot is the 45th day before election day, and provides that write-in votes may be counted only for names appearing on a list of declared write-in candidates.

SECTION 36. Amends Section 172.024(a), Election Code, to modify the filing fees for candidates for elected office.

SECTION 37. Amends Sections 172.126(a) and (c), Election Code, as follows:

(a) Requires the decision to conduct a joint general primary election or runoff primary election, as applicable, to be made by majority vote of the full membership of the commissioners court and with the unanimous approval of the county clerk and the county chair of each political party required to nominate candidates by primary election.

(c) Prohibits a joint primary, if an eligible presiding co-judge and alternate co-judge cannot be found to serve for a particular party in a precinct, from being conducted in that precinct, and requires that precinct to be consolidated with another precinct that has an eligible presiding co-judge and alternate co-judge to serve for each party.

SECTION 38. Amends Section 173.005(a), Election Code, to provide that the maximum hourly rate payable with state funds in a particular primary election year to election judges serving in a primary election for attending training programs is the same as the maximum rate prescribed by this code for compensation for attending a training program for election judges appointed to serve in elections ordered by the governor or a county authority, rather than a political subdivision's compensation of its election judges for the same activity.

SECTION 39. Amends Section 173.011(b), Election Code, to require any surplus remaining in a county primary fund to be remitted to the secretary of state, rather than county clerk, immediately after the final payment from the fund of the necessary expenses for holding the primary elections for that year, but not later than July 1 following the applicable primary election. Deletes a provision authorizing surplus primary funds received by the county clerk under this subsection to be used only for paying the remaining expenses of the joint primary election.

SECTION 40. Amends Section 212.001, Election Code, to require a recount document submitted under this title to be accompanied by a deposit as provided by Subchapter E.

SECTION 41. Amends Section 212.088(a), Election Code, to provide that if the deadline for submitting an expedited recount petition falls on a Saturday, Sunday, or legal state holiday, the deadline is extended to 10 a.m., rather than 9 a.m., of the next regular business day.

SECTION 42. Amends Section 212.111(b), Election Code, to require the deposit to be in the form of cash or a cashier's check or money order made payable to the recount coordinator.

SECTION 43. Amends Section 277.002(a), Election Code, to make nonsubstantive changes.

SECTION 44. Repealers: Sections 13.072(e) (regarding an incomplete application), 15.026 (Effective Date of Registration Under New Name), 87.0271 (Committee Requirements Specific to General Election for State and County Officers), 87.1231(b) (prohibiting reporting vote totals when fewer than five votes are cast), 145.006 (Ineligibility Deadline Extended by Weekend or Holiday), 173.005(b) (relating to payment for training for election judges), and 212.111(c) (regarding a deposit made on a holiday), Election Code.

SECTION 45. (a) Effective date: September 1, 2003.

(b) Makes application of this Act as it relates to the holding of an election prospective to September 1, 2003.