

BILL ANALYSIS

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AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Every election cycle presents new situations that often result in the need to clarify or adjust state election laws to allow local jurisdictions more flexibility and direction in the election process. Additionally, the implementation of the federal Help America Vote Act has made elections increasingly complex, both for those who administer them and for voters. This bill addresses frequently asked questions to and from election officials and will result in more efficient elections.

As proposed, S.B. 1970 amends certain election practices and procedures contained in the Election Code.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the Secretary of State in SECTION 2 (Section 2.053, Election Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 2.051(a), Election Code, as follows:

(a) Provides that except as provided by Sections 2.055 (Special Election to Fill Vacancy in Legislature) and 2.056 (Unopposed Candidate for Office of State or County Government), this subchapter applies only to an election for officers of a political subdivision other than a county in which write-in votes are authorized to be counted only for names appearing on a list of write-in candidates and in which each candidate for an office that is to appear on the ballot is unopposed, except as provided by Subsection (b), rather than each candidate for an office that is to appear on the ballot is unopposed, except as provided by Subsection (b) and no proposition is to appear on the ballot. Provides that for purposes of this section, a special election of a political subdivision is considered to be a separate election with a separate ballot from a general election for officers of the political subdivision held at the same time as the special election or another special election of the political subdivision held at the same time as the special election.

SECTION 2. Amends Section 2.053, Election Code, as follows:

Sec. 2.053. ACTION ON CERTIFICATION. (a) Requires that a copy of the order or ordinance, if no election is to be held on election day by the political subdivision, be posted on election day at each polling place used or that would have been used in the election.

(b) Deletes existing text requiring that a copy of the order or ordinance be posted on election day at each polling place that would have been used in the election.

(c) Requires that the ballots used at a separate election held at the same time as an election that would have been held if the candidates were not declared elected under this section include the offices and names of the candidates declared elected under this section listed separately after the measures or contested races in the separate election under the heading "Unopposed Candidates Declared Elected." Requires the candidates to be grouped in the same relative order prescribed for the ballot generally. Provides that no votes are cast in connection with the candidates.

(d) Authorizes the secretary of state (SOS) by rule to prescribe any additional procedures necessary to accommodate a particular voting system or ballot style and to facilitate the efficient and cost-effective implementation of this section.

(e) Creates this subsection from existing text.

SECTION 3. Amends Section 2.054(a), Election Code, as follows:

(a) Provides that a person commits an offense, in an election that is authorized to be subject to this subchapter, if by intimidation or by means of coercion the person influences or attempts to influence a person to withdraw as a candidate. Makes conforming and nonsubstantive changes.

SECTION 4. Amends Chapter 2, Election Code, by adding Subchapter D, as follows:

SUBCHAPTER D. CANCELLATION OF ELECTIONS

Sec. 2.081. CANCELLATION OF MOOT MEASURE. (a) Authorizes an authority, if the authority that orders an election on a measure determines that the action to be authorized by the voters may not be taken, regardless of the outcome of the election, to declare the measure moot and remove the measure from the ballot.

(b) Requires the authority holding the election, if a measure is declared moot under this section and is removed from the ballot, to post notice of the declaration during early voting by personal appearance and on election day, at each polling place that would have been used for the election on the measure.

Sec. 2.082. SPECIFIC AUTHORITY FOR CANCELLATION REQUIRED. Authorizes an authority that orders an election to cancel the election only if the power to cancel the election is specifically provided by statute.

SECTION 5. Amends Section 16.031(a), Election Code, as follows:

(a) Requires the registrar to cancel a voter's registration immediately on receipt of notice from the early voting clerk under Section 101.0041 that a federal postcard application submitted by an applicant states a voting residence address located outside the registrar's county. Makes nonsubstantive changes.

SECTION 6. Amends Subchapter A, Chapter 61, Election Code, by adding Section 61.016, as follows:

Sec. 61.016. EMERGENCY PAPER BALLOTS. (a) Requires that an insufficient number of ballots or a malfunction of electronic voting system equipment be remedied through the use of emergency paper ballots when no other method of voting is available during voting hours for a person whose acceptance for voting is required by this code.

(b) Requires SOS to prescribe procedures for the creation and use of emergency paper ballots as required by this section.

SECTION 7. Amends Section 67.010, Election Code, by adding Subsection (d), to authorize the presiding officer to make a clerical correction to the officially canvassed returns based on any authorized amended county canvass filled with the presiding officer.

SECTION 8. Amends Section 85.001(e), Election Code, to provide that an election held on the uniform election date in May and any resulting runoff election, the period for early voting by personal appearance begins on the 12th day before election day and continues through the fourth day before election day.

SECTION 9. Amends Section 85.004, Election Code, as follows:

Sec. 85.004. New heading: PUBLIC NOTICE OF POLLING PLACE LOCATION. Requires that the election order and the election notice state the location of each, rather than the main, early voting polling place.

SECTION 10. Amends Chapter 101, Election Code, by adding Section 101.0041, as follows:

Sec. 101.0041. ACTION BY EARLY VOTING CLERK ON CERTAIN APPLICATIONS. Requires the early voting clerk to notify the voter registrar of a federal postcard application submitted by an applicant that states a voting residence address located outside the registrar's county.

SECTION 11. Amends Section 112.002(a), Election Code, to provide 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 the person is, rather than was, registered to vote in the county of former residence at the time the person offers to vote in the county of new residence, rather than when the voter changed residence.

SECTION 12. Amends Subchapter A, Chapter 125, Election Code, by adding Section 125.010, as follows:

Sec. 125.010. PRESENCE OF VOTING SYSTEM TECHNICIAN AUTHORIZED. (a) Defines "voting system technician."

(b) Authorizes a voting system technician, on the request of the authority holding the election, to be present at a polling place, a meeting of the early voting ballot board, or a central counting station for the purpose of repairing, assembling, maintaining, or operating voting system equipment.

SECTION 13. Amends Subchapter B, Chapter 141, Election Code, by adding Section 141.040, as follows:

Sec. 141.040. NOTICE OF DEADLINES. Requires the authority with whom the application is required to be filed, not later than the 30th day before the first day on which a candidate is authorized to file an application for a place on the ballot under this subchapter, to post notice of the dates of the filing period in a public place in a building in which the authority has an office.

SECTION 14. Reenacts Section 146.0301(a), Election Code, as amended by Chapters 1107 (H.B. 2309) and 1109 (H.B. 2339), Acts of the 79th Legislature, Regular Session, 2005, to prohibit a write-in candidate from withdrawing from the election after the 67th day before election day.

SECTION 15. Amends Section 172.116(b), Election Code, to require the committee to convene to conduct the local canvass at the county seat on the second Thursday, rather than not earlier than 6 p.m. on the second Thursday or later than 1 p.m. on the second Friday, after the election day at the hour specified by the county chair,

SECTION 16. Amends Section 172.120, Election Code, by amending Subsection (b) and adding Subsection (b-1), as follows:

(b) Requires the state executive committee (committee) to convene to conduct the state canvass for the general primary election not later than the second Sunday, rather than on the second Wednesday, after general primary election day, for an election in which three or more candidates are seeking election to the same office or the 22nd day after the general primary election day, for an election not described by Subdivision (1) (relating to the second Sunday after general primary election day, for an election in which three or more candidates are seeking election to the same office).

(b-1) Creates this subsection from existing text. Requires the committee, not later than the third, rather than second, Saturday after runoff primary election day, to convene at the call of the state chair to conduct the state canvass of the runoff primary election.

SECTION 17. Amends Section 192.031, Election Code, as follows:

Sec. 192.031. PARTY CANDIDATE'S ENTITLEMENT TO PLACE ON BALLOT. (a) Creates this subsection from existing text. Entitles a political party to have the names of its nominees for president and vice-president of the United States placed on the ballot in a presidential general election if the party's state chair delivers a certain written certification to SOS before the later of 5 p.m. of the 70th day before presidential election day, or 5 p.m. of the first business day after the date of final adjournment of the party's national presidential nominating convention. Deletes existing text entitling a political party to have the names of its nominees for president and vice-president of the United States placed on the ballot in a presidential general election if before 5 p.m. of the 70th day before presidential election day, the party's chair signs and delivers to SOS a certain written certification. Makes nonsubstantive changes

(b) Provides that if the state chair's certification of the party's nominees is delivered by mail, it is considered to be delivered at the time of its receipt by SOS.

SECTION 18. Amends Section 192.033(b), Election Code, to require SOS to deliver the certification to the authority responsible for having the official ballot prepared in each county before the later of the 62nd day before presidential election day or the second business day after the date of final adjournment of the party's national presidential nominating convention. Deletes existing text requiring SOS to deliver the certification to the authority responsible for having the official ballot prepared in each county, not later than the 62nd day before presidential election day.

SECTION 19. Amends Section 201.054(a), Election Code, to require that a candidate's application for a place on a special election ballot, except as provided by Subsection (f), be filed not later than 5 p.m. of the 62nd, rather than 67th, day before election day, if election day is on or after the 70th day after the date the election is ordered.

SECTION 20. Amends Section 212.112, Election Code, as follows:

Sec. 212.112. AMOUNT OF DEPOSIT. Provides that the amount of the recount deposit is \$60 for each precinct in which regular paper ballots were used, and \$100 for each precinct in which an electronic voting system was used. Deletes existing text providing that the amount of the recount deposit, subject to Subsection (d), is determined by the number of precincts for which a recount is requested in the document that the deposit accompanies, in accordance with a certain schedule. Deletes existing text of Subsections (b), (c), and (d).

SECTION 21. Amends Sections 213.013(b)-(i), Election Code, as follows:

(b) Entitles each candidate for the office, in a recount of an election on an office, to be present at the recount and have watchers, rather than representatives, present in the number corresponding to the number of counting teams designated for the recount. Makes a conforming change.

(c)-(i) Makes conforming changes.

SECTION 22. Amends Section 213.016, Election Code, as follows:

Sec. 213.016. PRINTING IMAGES OF BALLOTS CAST USING DIRECT RECORDING ELECTRONIC VOTING MACHINES. Entitles each candidate to be present and to have representatives present during the printing of the images in the same number as Section 213.013(b) prescribes for watchers for a recount, rather than in the same number as prescribed by Section 213.013(b) for a recount during the printing of the images.

SECTION 23. Amends Section 221.014(b), Election Code, as follows:

(b) Requires the county to pay the expenses of a new election ordered in the contest of a local option election, rather than a local option election, rather than a local option election held under the Alcoholic Beverage Code, that was financed from money deposited by the applicants for the petition requesting the election.

SECTION 24. Amends Sections 271.002(a)-(c), Election Code, as follows:

(a) Authorizes the governing bodies of the political subdivisions, if the election ordered by the authorities of two or more political subdivisions are to be held on the same day in all or part of the same county, rather than territory, to enter into an agreement to hold the elections jointly in the election precincts that can be served by common polling places, subject to section 271.003 (Location of Common Polling Place).

(b)-(c) Makes conforming changes.

SECTION 25. Amends Section 277.001, Election Code, as follows:

Sec. 277.001. APPLICABILITY OF CHAPTER. Provides that this chapter applies to a petition authorized or required to be filed under a law outside this code in connection with an election, rather than in connection with an election, except a petition for a local option election held under the Alcohol Beverage Code.

SECTION 26. Repealer: Section 1.016 (Computation of Age), Election Code.

Repealer: Section 32.051(d) (relating to the Alcoholic Beverage Code superseding this section to the extent of any conflict), Election Code.

Repealer: Section 33.031(b) (relating to the Alcoholic Beverage Code superseding this section to the extent of any conflict), Election Code.

Repealer: Section 41.0041(b) (relating to this section not applying to a local option election held under the Alcoholic Beverage Code), Election Code.

Repealer: Section 65.002(d) (relating to this section not applying to a local option election under the Alcoholic Beverage Code), Election Code.

SECTION 27. Provides that the change in law made by the repeal of Section 1.016, Election Code, by this Act does not affect the validity of a person's action taken before the effective date of this Act, including a person's registration to vote, if the person was qualified to take such action before the effective date of this Act.

SECTION 28. Makes application of this Act prospective.

SECTION 29. Effective date: September 1, 2009.