

BILL ANALYSIS

Senate Research Center
82R7808 JRJ-D

S.B. 1128
By: Jackson
State Affairs
5/4/2011
As Filed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

S.B. 1128 addresses conflict of interest issues by requiring any government official who oversees, manages, or administers the election process to resign his or her position if they become a candidate for public office or for a position in a political party. This provision exempts county clerks and tax assessor-collectors as they are elected officials.

S.B. 1128 addresses voter assistance. Current statute prohibits election officials from observing the type of help being provided by an assistant selected by the voter. However, some election officials have become concerned about the amount of "assistance" being provided to the voters.

As proposed, S.B. 1128 amends current law relating to the conduct and administration of elections.

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. Transfers Section 31.035, Election Code, to Subchapter E, Chapter 31, Election Code, redesignates it as Section 31.124, Election Code, and amends it as follows:

Sec. 31.124. RESTRICTIONS ON POLITICAL ACTIVITIES. (a) Redesignates Section 31.035 as Section 31.124. Prohibits a county elections administrator or other government official who oversee, manages, or administers the election process from being a candidate for a public office or an office of a political party, hold public office, or hold an office of or position in a political party. Provides that at the time an administrator or official becomes a candidate or accepts an office or position in violation of this subsection, the administration or official vacates the position, rather than the administrator or official vacates the position of administrator.

(b)-(c) Makes no changes to these subsections.

(d) Provides that this section does not apply to a county clerk or a county tax assessor-collector.

SECTION 2. Amends Subchapter D, Chapter 32, Election Code, by adding Section 32.076, as follows:

Sec. 32.076. OBSERVING VOTER ASSISTANCE. (a) Authorizes the presiding judge or alternate presiding judge to observe assistance being provided to a voter to ensure compliance with the oath taken under Section 64.034 (Oath) and that Section 64.036(a) (relating to offenses involving providing assistance to certain voters) is not being violated if the judge has reason to believe that a person assisting a voter under Section 64.032(c) (relating to authorizing voter assistance under certain conditions) is violating Section 64.036(a) or the oath taken under Section 64.034.

(b) Requires two election officers affiliated or aligned with different political parties, if a watcher appointed under Chapter 33 (Watchers) requests the observation under Section 33.057(c), to observe the assistance provided to a voter to ensure that the person assisting the voter complies with the oath taken under Section 64.034 and does not violate Section 64.036(a).

SECTION 3. Amends Section 33.057, Election Code, by adding Subsection (c), to authorize a watcher to request that two election officers affiliated or aligned with different political parties observe the assistance provided to a voter to ensure that the person assisting the voter complies with the oath taken under Section 64.034 and does not violate Section 64.036(a).

SECTION 4. Amends Section 43.007, Election Code, by amending Subsections (k) and (l), as follows:

(k) Provides that each county that previously participated in a program under this section is authorized to continue participation in the program for future elections described by Subsection (a) (relating to implementation of program to eliminate polling places) if the commissioners court of the county approves participation in the program, and the secretary of state (SOS) determines the county's participation in the program was successful.

(l) Provides that Subsections (b) (relating to public hearings), (c) (relating to audit of the direct recording electronic voting units), (d) (relating to SOS participating in certain programs), and (i) (relating to limits to participation of SOS) to not apply to a county participating in the program under Subsection (k).

SECTION 5. Amends Subchapter E, Chapter 127, Election Code, by adding Section 127.1311, as follows:

Sec. 127.1311. ANNOUNCING UNOFFICIAL RESULTS. (a) Requires unofficial election results, except as provided by Subsection (b), to be released as soon as they are available after the polls close.

(b) Authorizes the presiding judge of the central counting station, in cooperation with the county clerk, to withhold the release of unofficial election results until the last voter has voted.

SECTION 6. Amends Section 573.061, Government Code, as follows:

Sec. 573.061. GENERAL EXCEPTIONS. Provides that Section 573.041 (Prohibition Applicable to Public Official) does not apply to certain appointments, including an appointment of an election clerk under Section 32.031 (Presiding Judge to Appoint Clerks), Election Code, who is not related in the first degree by consanguinity or affinity to an elected official of the authority that appoints the election judges for that election. Makes a nonsubstantive change.

SECTION 7. Effective date: September 1, 2011.