

## **BILL ANALYSIS**

Senate Research Center

H.B. 1735  
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State Affairs  
5/10/2017  
Engrossed

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

H.B. 1735 makes multiple changes to the Texas Election Code with regard to election officers.

Specifically, the bill addresses concerns regarding the removal of election officers, the content of certain oaths of office, and the appointment process for election judges for countywide polling places.

Additionally, the bill creates a remedy for an incorrect ballot determination, standardizes the requirements for a tabulation supervisor's assistant, and removes the cap on pay assigned to poll workers.

All of these provisions are designed to clarify and/or improve processes and guidelines relating to elections and election officers in this state.

H.B. 1735 amends current law relating to certain election officers.

### **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 Chapter 1, Election Code, by adding Section 1.016, as follows:

Sec. 1.016. OATHS BY ELECTION OFFICERS. (a) Authorizes an oath or statement required by the Texas Constitution or this code prior to an election officer entering service to be administered and a certificate of the fact given by:

- (1) the secretary of state (SOS), a member of SOS's staff, or a state inspector appointed by SOS;
- (2) a county or municipal clerk or the clerk's deputies;
- (3) a county tax assessor-collector or the county tax assessor-collector's deputies;
- (4) a city secretary;
- (5) a member of a county election commission or county election board;
- (6) a county elections administrator or employee of a county elections administrator;
- (7) the secretary of a governing body of a political subdivision other than a county or city or the authority performing the duties of a secretary under this code;

(8) a presiding election judge or alternate presiding judge who has already entered service;

(9) an early voting clerk or a deputy early voting clerk who has already entered service;

(10) a member of an early voting ballot board or signature verification committee who has already entered service; or

(11) a presiding judge, manager, or tabulation supervisor of a central counting station who has already entered service.

(b) Provides that an oath, statement, or certificate described under Subsection (a) is valid for the duration of the election officer's term of office and is required to be filed with election records for the election in which the election officer is serving.

(c) Authorizes SOS to prescribe a form of oath, statement, or certificate that incorporates any oaths or statements required by the Texas Constitution or this code for an election officer into a single oath or statement.

SECTION 2. Amends Section 32.002, Election Code, by adding Subsection (c-1), as follows:

(c-1) Requires the county chair, for purposes of this subsection, to provide a list of names of persons eligible for appointment as election judges. Requires judges of countywide polling places established under Section 43.007 (Countywide Polling Place Program) to be appointed from the list of names of persons submitted by the county chair in compliance with Subsection (c) (relating to requirements of the presiding and alternate presiding judges, county chair of a political party, and commissioners court) except that in appointing a person from the list the commissioners court is required to apportion the number of judges in direct proportion to the percentage of precincts located in each county commissioners precinct won by each party in the last gubernatorial election, the commissioners court is not required to make the appointments based on specific polling locations or precincts, a presiding judge or alternate presiding judge is not required to serve in a polling place located in the precinct in which the judge resides, and more than one presiding judge or alternate presiding judge may be selected from the same precinct to serve in polling places not located in the precinct in which the judges reside. Authorizes the county chairs to submit, and the commissioners court to preapprove, the appointment of more presiding judges or alternate presiding judges than necessary to fill available positions. Authorizes the county clerk to select an individual whose appointment was preapproved by the commissioners court to fill a vacancy in a position that was held by an individual from the same political party. Provides that, other than a judge's party affiliation, nothing in this subsection precludes a county clerk from placing an election officer at a countywide polling place based on the need for services at that location.

SECTION 3. Amends Section 32.002, Election Code, by adding Subsection (g), as follows:

(g) Authorizes the county clerk, 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, to remove, replace, or reassign an election judge who causes a disruption in a polling location or wilfully disobeys the provisions of this code. Requires a vacancy created under this subsection to be filled in the same manner as an emergency appointment under Section 32.007 (Emergency Appointment).

SECTION 4. Amends Section 32.006(a), Election Code, to require the county chair of a political party holding a primary election to appoint for each primary the judges for each precinct in which the election will be held in the county and fill any vacancy that occurs in the position of presiding judge or alternate presiding judge, rather than requiring the county chair of a political party holding a primary election to appoint for each primary, with the approval of the county

executive committee, the judges for each precinct in which the election will be held in the county.

SECTION 5. Amends Section 32.009(d), Election Code, to require a notice to a presiding judge to state the name, address, and any available telephone number and e-mail address of the alternate, and a notice to an alternate to state the name, address, and any available telephone number and e-mail address of the presiding judge. Makes nonsubstantive changes.

SECTION 6. Amends Subchapter A, Chapter 32, Election Code, by adding Section 32.012, as follows:

Sec. 32.012. PROVISION OF INFORMATION RELATING TO ELECTION JUDGES APPOINTED BY COMMISSIONERS COURT. (a) Requires the county clerk, after the commissioners court appoints a presiding election judge and an alternate presiding judge, to provide to the county chair of each political party a list of the individuals appointed by the commissioners court.

(b) Requires the appointment list to be provided in writing.

SECTION 7. Amends Section 32.034, Election Code, by adding Subsection (f), as follows:

(f) Authorizes the county clerk, 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, to remove, replace, or reassign an election clerk who causes a disruption in a polling location or wilfully disobeys the provisions of this code. Requires a vacancy created under this subsection to be filled by the presiding judge, who is required to appoint a replacement election clerk who is affiliated or aligned with the same political party as the original clerk, if possible.

SECTION 8. Amends Section 32.114(e), Election Code, to provide that an election judge, early voting clerk, or deputy early voting clerk in charge of an early voting polling place is entitled to compensation for attending the training program at an hourly rate fixed by the appropriate authority in an amount that is equal to or greater than the federal minimum wage, rather than not to exceed \$7.

SECTION 9. Amends Section 43.007, Election Code, by amending Subsection (a) and adding Subsections (m) and (n), as follows:

(a) Requires SOS to implement a program to allow each commissioners court participating in the program to eliminate county election precinct polling places and establish countywide polling places for:

(1) makes no change to this subdivision;

(2) each election held on the uniform election date in May and any resulting runoff;

(3) through (5) makes no changes to these subdivisions.

(m) Requires the county, in adopted a methodology under Subsection (f) (relating to requiring a county, in selecting countywide polling places, to adopt a certain methodology), to ensure that each county commissioners precinct contains at least one countywide polling place and that the total number of permanent branch and temporary branch polling places open for voting in a county commissioners precinct does not exceed more than twice the number of permanent branch and temporary branch polling places in another county commissioners precinct.

(n) Requires countywide polling places, to the greatest extent possible, to be located in a precinct where the political party that received the greatest number of votes in the last

gubernatorial election is the same political party with which the presiding judge is affiliated.

SECTION 10. Amends Section 85.009(b), Election Code, to change references to election officer to judge.

SECTION 11. Amends Subchapter A, Chapter 85, Election Code, by adding Section 85.0091, as follows:

Sec. 85.0091. EARLY VOTING ELECTION OFFICERS FOR PRIMARY ELECTIONS. (a) Requires the early voting clerk to select election officers for a primary election for the main early voting polling place and any branch polling place in a manner consistent with Section 85.009 (Election Officers for General Election for State and County Officers), except that the early voting clerk is required to prescribe the deadline by which county chairs are required to submit names of persons eligible to serve as election officers during early voting.

(b) Provides that this section does not apply to a joint primary governed by Section 172.126 (Joint Primaries Authorized).

SECTION 12. Amends Subchapter A, Chapter 87, Election Code, by adding Section 87.006, as follows:

Sec. 87.006. EARLY VOTING BALLOT BOARD MEMBERS: OATH AND IDENTIFICATION. (a) Requires a member of the early voting ballot board to repeat a certain oath aloud. Sets forth the text of the required oath.

(b) Requires a member of the early voting ballot board who arrives after the oath is made to repeat the oath aloud before performing any duties as a member.

(c) Requires each member of the early voting ballot board, following administration of the oath, to be issued a form of identification, prescribed by SOS, to be displayed by the member during the member's hours of service on the board.

SECTION 13. Amends Subchapter G, Chapter 87, Election Code, by adding Section 87.127, as follows:

Sec. 87.127. RESOLUTION OF INCORRECT DETERMINATION BY EARLY VOTING BALLOT BOARD. (a) Authorizes a county election officer, if a county election officer, as defined by Section 31.091 (Definitions), 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.

(b) 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.

SECTION 14. Amends Subchapter A, Chapter 127, Election Code, by adding Section 127.0015, as follows:

Sec. 127.0015. CENTRAL COUNTING STATION OFFICERS: OATH AND IDENTIFICATION. (a) Requires election officers appointed under this subchapter to repeat a certain oath aloud. Sets forth the content of the oath.

(b) Requires an officer who arrives after the oath is made to repeat the oath aloud before performing any duties as an election officer.

(c) Requires each election officer, following administration of the oath, to be issued a form of identification, prescribed by SOS, to be displayed by the officer during the officer's hours of service at the central counting station.

SECTION 15. Amends Section 127.004(b), Election Code, to require a person, to be eligible for appointment as a tabulation supervisor's assistant, to have the competence, training, and experience required for the proper performance of the work assigned, and in a county with a population of less than 60,000, be a registered voter of the political subdivision served by the authority establishing the counting station or an employee of the political subdivision that adopts or owns the voting system.

SECTION 16. Amends Section 127.007, Election Code, by adding Subsection (c), to require the plan required under this section to be available to the public on request not later than 5 p.m. on the fifth day before the date of the election.

SECTION 17. Repealer Section 32.006(b) (relating to authorizing the county chair to fill vacancies of the presiding judge and the alternate judge if there is a vacancy under certain circumstances), Election Code.

Repealer: Section 32.010 (Furnishing Precinct Boundary Information to Judges), Election Code.

SECTION 18. Effective date: September 1, 2017.