

BILL ANALYSIS

C.S.S.B. 14
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Voter Identification & Voter Fraud, Select
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Ensuring the integrity of the election process by allowing registered voters to vote and preventing ineligible voters from voting is one goal of the Texas election process. Using the voter registration certificate as a way for the voter to indicate, when offering to vote, that the voter is registered is a step forward toward ensuring the integrity of this process. However, relying on this method may provide opportunities for voter fraud as the voter registration certificate does not necessarily verify the identity of the person presenting the certificate. Options are limited for an election judge who, on being presented a voter registration certificate for voting, suspects the voter is not the person identified on the certificate. C.S.S.B. 14 attempts to further ensure the integrity of the election process by addressing requirements to vote, including presenting a form of photo identification.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

C.S.S.B. 14 amends the Election Code to require a voter, on offering to vote, to present to an election officer at the polling place one acceptable form of photo identification. The bill, in a provision establishing the regular procedure for accepting a voter, removes language relating to the requirement that the voter present the voter's voter registration certificate. The bill makes related conforming changes. The bill includes in the requirement to accept for voting a voter whose name is on the precinct list of registered voters that the voter's identity can be verified from the required form of documentation presented.

C.S.S.B. 14 establishes the following documentation as acceptable forms of photo identification for voting:

- a driver's license or personal identification card issued to the person by the Department of Public Safety (DPS) that has not expired or that expired no earlier than 60 days before the date of presentation;
- a United States military identification card that contains the person's photograph that has not expired or that expired no earlier than 60 days before the date of presentation;
- a United States citizenship certificate issued to the person that contains the person's photograph;
- a United States passport issued to the person that has not expired or that expired no earlier than 60 days before the date of presentation; or
- a license to carry a concealed handgun issued to the person by DPS that has not expired or that expired no earlier than 60 days before the date of presentation.

C.S.S.B. 14 removes the following documentation as acceptable proof of identification for voting:

- a driver's license or personal identification card issued to the person by DPS with no condition regarding its expiration;
- a document similar to a driver's license or personal identification card issued to the person by an agency of another state with no condition regarding its expiration;
- an unspecified form of identification containing the person's photograph that establishes the person's identity;
- a birth certificate or other document confirming birth that is admissible in a court of law and establishes the person's identity;
- unspecified United States citizenship papers issued to the person with no condition regarding the person's photograph;
- official mail addressed to the person by name from a governmental entity;
- a copy of a current utility bill, bank statement, government check, paycheck, or other government document that shows the name and address of the voter; or
- any other form of identification prescribed by the secretary of state.

C.S.S.B. 14 requires an applicant for voter registration who wishes to receive an exemption from certain voter identification requirements on the basis of disability to include with the person's application written documentation from the United States Social Security Administration evidencing the applicant has been determined to have a disability or from the United States Department of Veterans Affairs evidencing the applicant has a disability rating of at least 50 percent, and a statement in a form prescribed by the secretary of state that the applicant does not have an acceptable form of identification. The bill requires a voter registration certificate issued to a voter who meets the certification requirements for a disability exemption to contain an indication that the voter is exempt from the requirement to present identification other than the registration certificate before being accepted for voting.

C.S.S.B. 14 makes voter identification requirements inapplicable to a voter who presents the voter's voter registration certificate on offering to vote and was 70 years of age or older on January 1, 2012, as indicated by the date of birth on the certificate, or is disabled and the certificate contains the indication that the voter is exempt from voter identification requirements on the basis of disability.

C.S.S.B. 14 establishes that a voter who, when offering to vote, presents the required identification documentation but whose name is not on the precinct list of registered voters must be accepted for voting if the voter also presents a voter registration certificate indicating that the voter is currently registered in the precinct in which the voter is offering to vote or in a different precinct in the same county as the precinct in which the voter is offering to vote and the voter executes an affidavit. The bill requires the affidavit to state that the voter is a resident of the precinct in which the voter is offering to vote or is otherwise entitled by law to vote in that precinct, was a resident of the precinct in which the voter is offering to vote at the time the information on the voter's residence address was last provided to the voter registrar, did not deliberately provide false information to secure registration in a precinct in which the voter does not reside, and is voting only once in the election. The bill includes entering the voter's name on the registration omissions list among the actions an election officer is required to perform after the voter is accepted.

C.S.S.B. 14 requires a voter to be accepted for voting if the election officer, in making a

determination of whether the voter's name on the documentation is on the list of registered voters for the precinct, determines that the voter's name is substantially similar to but does not match exactly with the name on the precinct list of registered voters and the voter submits an affidavit stating that the voter is the person on the precinct list of registered voters.

C.S.S.B. 14 requires an election officer to inform a voter who is not accepted for voting because of failure to present the required identification of the voter's right to cast a provisional ballot and provide the voter with written information, in a form prescribed by the secretary of state, that lists the requirements for identification; states the procedure for presenting identification; includes a map showing the location where identification must be presented; and includes notice that even if all procedures are followed, there is no guarantee that the voter's provisional ballot will be accepted. The bill includes in the required spaces on the form of the affidavit for casting a provisional ballot a space for an election officer to indicate whether the person presented an acceptable form of photo identification and makes conforming and nonsubstantive changes.

C.S.S.B. 14 authorizes a voter who is accepted for provisional voting because the voter does not meet the identification requirements, to present, not later than the sixth day after the date of the election, the required form of identification to the voter registrar for examination or execute in the presence of the voter registrar an affidavit under penalty of perjury stating that the voter is indigent and is unable to obtain proof of identification without the payment of a fee or has a religious objection to being photographed and the voter has not been challenged and voted a provisional ballot solely because the voter did not meet the identification requirements. The bill requires the secretary of state to prescribe procedures as necessary to implement the identification and affidavit requirements for such a provisional ballot. The bill provides for the meaning of "indigent" by reference to the Government Code.

C.S.S.B. 14 adds as a requirement for a provisional ballot to be accepted by the early voting ballot board the board's determination that the person meets the voter identification requirements at the time the ballot was cast or not later than the sixth day after the date of the election or executes an affidavit under penalty of perjury stating that the voter is indigent and is unable to obtain proof of identification without the payment of a fee or has a religious objection to being photographed and the voter has not been challenged and voted a provisional ballot solely because the voter did not meet the identification requirements .

C.S.S.B. 14 requires the voter registrar of each county to provide notice of the identification requirements for voting and a detailed description of those requirements with each original or renewal voter registration certificate issued and requires the secretary of state to prescribe the wording of that notice. The bill requires the secretary of state and the voter registrar of each county that maintains a website to provide notice of the identification requirements for voting on each entity's respective website in each language in which voter registration materials are available and requires the secretary of state to prescribe the wording of that notice. The bill requires the secretary of state to conduct a statewide effort to educate voters regarding the identification requirements for voting. The bill requires the county clerk of each county to post in a prominent location at the clerk's office a physical copy of the prescribed notice of the identification requirements for voting in each language in which voter registration materials are available. The bill requires the training standards adopted by the secretary of state for presiding or alternate election judges to include provisions on the acceptance and handling of the identification presented by a voter to an election officer and requires each election clerk to complete that part of the training program. The bill requires, as soon as practicable, that the secretary of state adopt the training standards and develop the training materials and the county clerk of each county provide a session of training using those standards and materials as required by the bill. The bill makes its provisions relating to notice by the registrar, education, and training regarding identification requirements for voting effective September 1, 2011.

C.S.S.B. 14 requires the presiding judge to post in a prominent place on the outside of each polling location a list of the acceptable forms of identification. The bill requires the list to be

printed using a font that is at least 24-point. The bill requires the notice of acceptable forms of identification to be posted separately from any other notice required by state or federal law.

C.S.S.B. 14 increases the penalty for an illegal voting offense from a third degree felony to a second degree felony and increases the penalty for an attempted illegal voting offense from a Class A misdemeanor to a state jail felony. The bill makes this change applicable only to an offense committed on or after January 1, 2012.

C.S.S.B. 14 amends the Transportation Code to prohibit DPS from collecting a fee for a personal identification certificate issued to a person who states that the person is obtaining the certificate for the purpose of satisfying the requirement for photographic identification for voting and does not have another form of the required identification if the person is a registered voter in Texas and presents a valid voter registration certificate or is eligible for voter registration and submits a voter registration application to DPS. The bill makes a related conforming change.

C.S.S.B. 14 amends the Election Code to add a temporary provision, effective September 1, 2011, and set to expire September 1, 2017, requiring an election officer to distribute written notice of the identification that will be required for voting beginning with elections held after January 1, 2012, and information on obtaining a personal identification certificate from DPS without a fee, as provided by the bill, to each voter who, when offering to vote, presents a form of identification that will not be sufficient for acceptance as a voter beginning with those elections. The bill requires the secretary of state to prescribe the wording of the notice and establish guidelines for its distribution.

C.S.S.B. 14 adds a temporary provision, effective September 1, 2011, and set to expire January 1, 2013, to establish that state funds disbursed for the purpose of defraying expenses of the voter registrar's office in connection with voter registration may also be used for additional expenses related to coordinating voter registration drives or to other activities designed to expand voter registration.

C.S.S.B. 14 repeals the following provisions of the Election Code:

- Section 63.007, relating to a voter with an incorrect certificate who is not on the precinct list of registered voters
- Section 63.008, relating to a voter without a certificate who is on the precinct list of registered voters

EFFECTIVE DATE

Except as otherwise provided, January 1, 2012.

COMPARISON OF ORIGINAL AND SUBSTITUTE

C.S.S.B. 14 differs from the original by requiring an applicant for voter registration who wishes to receive an exemption from the identification requirements for voting on the basis of disability to include with the person's application written documentation from the United States Social Security Administration evidencing the applicant has been determined to have a disability or from the United States Department of Veterans Affairs evidencing the applicant has a disability rating of at least 50 percent and a statement in a form prescribed by the secretary of state that the applicant does not have an acceptable form of identification, whereas the original requires the applicant to include a certification from a physician that the person has a disability as defined under provisions of the Labor Code.

C.S.S.B. 14 differs from the original by requiring a list of acceptable forms of identification to be printed using a font that is at least 24-point, whereas the original requires both a notice and list

relating to acceptable forms of identification to be printed using a font that is at least 24-point.

C.S.S.B. 14 differs from the original, in a provision requiring a voter to be accepted for voting if the voter's name is on the registered voters precinct list and the voter's identity can be verified from the presentation of a required form of identification, by specifying that the acceptance of the voter for voting is based on a determination by the election officer.

C.S.S.B. 14 differs from the original, in a provision requiring a voter whose name is not on the registered voters precinct list to be accepted for voting if, among other conditions, the voter presents a voter registration certificate indicating current registration in a precinct other than the one in which the voter is offering to vote, by specifying that the different precinct to which the provision applies is a precinct in the same county as the precinct in which the voter is offering to vote. The substitute differs from the original by requiring the election officer, after accepting the voter for voting, to enter the voter's name on the registration omissions list, whereas the original requires entry of the precinct of the voter's registration as indicated by the voter's registration certificate.

C.S.S.B. 14 adds a condition not in the original for the acceptance of a concealed handgun license as a form of photographic identification for the purpose of voting that the license has not expired or expired no earlier than 60 days before the date of presentation.

C.S.S.B. 14 adds a provision not in the original to include as a requirement that a provisional ballot be accepted if the voter meets the identification requirements at the time the ballot was cast. The substitute differs from the original, in the provision requiring an affidavit executed by the voter to provide the reasons the voter is unable to provide proof of identification, by specifying the affidavit states the voter has not been challenged and voted a provisional ballot solely because the voter did not meet the identification requirements, whereas the original specifies the voter has not been challenged or required to vote a provisional ballot for any other reason.

C.S.S.B. 14 adds a provision not in the original, as a condition for the prohibition against the Department of Public Safety collecting a fee for a personal identification certificate, that the person states the person does not have another acceptable form of identification.

C.S.S.B. 14 omits a provision in the original making the changes in law under the bill's provisions contingent on a specific appropriation for the implementation of the changes.

C.S.S.B. 14 differs from the original by making nonsubstantive changes.