

BILL ANALYSIS

C.S.H.B. 2381
By: Reynolds
Elections
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Interested parties point out that efforts have been made to try to ensure that county election workers associated with the political parties whose gubernatorial candidates received the first and second highest number of votes in the county are appointed in equal or nearly equal numbers across the state in all elections but argue that there are still some discrepancies that need to be cleaned up. The parties assert that the most notable discrepancy is the fact that the county clerk or election administrator could appoint early-voting workers for the primary election that are entirely of one party and suggest this state of affairs is undesirable. C.S.H.B. 2381 seeks to address these issues.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

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.H.B. 2381 amends the Election Code to require the county chair of a political party whose candidate for governor received the highest or second highest number of votes in the county in the most recent gubernatorial general election, before July of each year in a county with a population of over 500,000 or before August of each year in a county with a population of 500,000 or less, to submit in writing to the county clerk instead of to the commissioners court a list of names of persons in order of preference for each precinct who are eligible for appointment as an election judge. The bill requires the county clerk to prepare for the commissioners court a list of persons whose names were submitted by the county chairs and who are eligible to serve as election judges. The bill authorizes the county clerk to reject any person from the list if the person is determined not to meet the applicable eligibility requirements. The bill requires judges of countywide polling places to be appointed from persons whose names were submitted for appointment by the county chairs in a manner that provides equitable representation, except that the commissioners court and county clerk are not required to make the appointments based on specific polling locations, a 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. The bill authorizes the county clerk to submit, and the commissioners court to preapprove, the appointment of more presiding judges or alternate presiding judges than necessary to fill available positions. The bill authorizes the county clerk to select an individual whose appointment was preapproved to fill a vacancy in a position that was held by an individual from the same political party and specifies that these provisions do not preclude a county clerk from placing an election officer at a countywide polling place based on

the need for services at that location.

C.S.H.B. 2381 requires the county chair of a political party holding a primary election to fill any vacancy that occurs in the position of presiding judge or alternate presiding judge and removes the requirement that the appointment of such officers by the chair be approved by the county executive committee. The bill requires a notice of appointment sent to either a presiding judge or alternate judge to include any available telephone number and e-mail address of the other judge, as applicable. The bill 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 that submitted names for appointment, in writing, the appointment list that includes each appointed judge's name, residence precinct, appointment location, address, and any available telephone number and e-mail address.

C.S.H.B. 2381 specifies that, in a general election for state and county officers, the persons appointed by the county clerk as the presiding and alternative presiding election officers instead serve as the presiding or alternate presiding judges of the polling place, as applicable. The bill requires the early voting clerk, in an election other than a joint primary, to select election officers for a primary election for the main early voting polling place and any branch polling place in the manner that statutory provisions relating to election officers for a general election for state and county officers provide for the county clerk to select officers from the appropriate political party, except that the early voting clerk is required to prescribe the deadline by which county chairs must submit names of persons eligible to serve as election officers

C.S.H.B. 2381 repeals a limitation on the number of student election clerks authorized to serve at a polling place and provisions requiring precinct boundary information to be furnished to election judges.

C.S.H.B. 2381 repeals the following Election Code provisions:

- Section 32.006(b)
- Section 32.010
- Section 32.0511(d)

EFFECTIVE DATE

September 1, 2015.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 2381 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and formatted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

INTRODUCED

SECTION 1. Section 32.002, Election Code, is amended by amending Subsection (c) and adding Subsection (c-1) to read as follows:

(c) The presiding judge and alternate presiding judge must be affiliated or aligned with different political parties, subject to this subsection. Before July of each year in a county to which Subsection (a)(1) applies or before August of each year in a county to

HOUSE COMMITTEE SUBSTITUTE

SECTION 1. Section 32.002, Election Code, is amended by amending Subsection (c) and adding Subsection (c-1) to read as follows:

(c) The presiding judge and alternate presiding judge must be affiliated or aligned with different political parties, subject to this subsection. Before July of each year in a county to which Subsection (a)(1) applies or before August of each year in a county to

which Subsection (a)(2) applies, the county chair of a political party whose candidate for governor received the highest or second highest number of votes in the county in the most recent gubernatorial general election shall submit in writing to the county clerk [~~commissioners court~~] a list of names of persons in order of preference for each precinct who are eligible for appointment as an election judge. The county chair may supplement the list of names of persons until the 20th day before a general election or the 15th day before a special election in case an appointed election judge becomes unable to serve. The county clerk shall prepare for the commissioners court a list of persons whose names were submitted by the county chairs and who are eligible to serve as election judges. The commissioners court shall appoint the first person who meets [~~meeting~~] the applicable eligibility requirements from the list prepared by the county clerk and whose name was submitted in compliance with this subsection by the party with the highest number of votes in the precinct as the presiding judge and the first person who meets [~~meeting~~] the applicable eligibility requirements from the list prepared by the county clerk and whose name was submitted in compliance with this subsection by the party with the second highest number of votes in the precinct as the alternate presiding judge. If the candidates for governor of two political parties received the same number of votes in the precinct, the first person who meets [~~meeting~~] the applicable eligibility requirements from the list prepared by the county clerk and whose name was submitted by the party whose candidate for governor received the highest number of votes in the county shall be appointed as the presiding judge and the first person who meets [~~meeting~~] the applicable eligibility requirements from the list prepared by the county clerk and whose name was submitted by the party whose candidate for governor received the second highest number of votes in the county shall be appointed as the alternate presiding judge. The county clerk [~~commissioners court~~] may reject any person from the list if the person is [~~persons whose names are submitted on the list are~~] determined not to meet the applicable eligibility requirements.

(c-1) Judges of countywide polling places

which Subsection (a)(2) applies, the county chair of a political party whose candidate for governor received the highest or second highest number of votes in the county in the most recent gubernatorial general election shall submit in writing to the county clerk [~~commissioners court~~] a list of names of persons in order of preference for each precinct who are eligible for appointment as an election judge. The county chair may supplement the list of names of persons until the 20th day before a general election or the 15th day before a special election in case an appointed election judge becomes unable to serve. The county clerk shall prepare for the commissioners court a list of persons whose names were submitted by the county chairs and who are eligible to serve as election judges. The commissioners court shall appoint the first person who meets [~~meeting~~] the applicable eligibility requirements from the list prepared by the county clerk and whose name was submitted in compliance with this subsection by the party with the highest number of votes in the precinct as the presiding judge and the first person who meets [~~meeting~~] the applicable eligibility requirements from the list prepared by the county clerk and whose name was submitted in compliance with this subsection by the party with the second highest number of votes in the precinct as the alternate presiding judge. If the candidates for governor of two political parties received the same number of votes in the precinct, the first person who meets [~~meeting~~] the applicable eligibility requirements from the list prepared by the county clerk and whose name was submitted by the party whose candidate for governor received the highest number of votes in the county shall be appointed as the presiding judge and the first person who meets [~~meeting~~] the applicable eligibility requirements from the list prepared by the county clerk and whose name was submitted by the party whose candidate for governor received the second highest number of votes in the county shall be appointed as the alternate presiding judge. The county clerk [~~commissioners court~~] may reject any person from the list if the person is [~~persons whose names are submitted on the list are~~] determined not to meet the applicable eligibility requirements.

(c-1) Judges of countywide polling places

established under Section 43.007 must be appointed in compliance with Subsection (c) from the persons whose names were submitted for appointment as election judges for the precincts in the geographic vicinity of the countywide polling place.

established under Section 43.007 must be appointed in compliance with Subsection (c) from the persons whose names were submitted for appointment by the county chairs in a manner that provides equitable representation, except that the commissioners court and county clerk are not required to make the appointments based on specific polling locations, a 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. The county clerk may submit, and the commissioners court may preapprove, the appointment of more presiding judges or alternate presiding judges than necessary to fill available positions. The county clerk may select an individual whose appointment was preapproved to fill a vacancy in a position that was held by an individual from the same political party. 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 2. Section 32.006(a), Election Code, is amended.

SECTION 2. Same as introduced version.

SECTION 3. Section 32.009(d), Election Code, is amended.

SECTION 3. Same as introduced version.

SECTION 4. Subchapter A, Chapter 32, Election Code, is amended by adding Section 32.012 to read as follows:

SECTION 4. Subchapter A, Chapter 32, Election Code, is amended by adding Section 32.012 to read as follows:

Sec. 32.012. PROVISION OF INFORMATION RELATING TO ELECTION JUDGE APPOINTED BY COMMISSIONERS COURT. (a) After the commissioners court appoints an election judge, the county clerk shall provide to the county chair of each political party that submitted names for appointment the appointment list that includes each appointed judge's name, precinct, address, and any available telephone number and e-mail address.

Sec. 32.012. PROVISION OF INFORMATION RELATING TO ELECTION JUDGES APPOINTED BY COMMISSIONERS COURT. (a) After the commissioners court appoints a presiding election judge and an alternate presiding judge, the county clerk shall provide to the county chair of each political party that submitted names for appointment the appointment list that includes each appointed judge's name, residence precinct, appointment location, address, and any available telephone number and e-mail address.

(b) The appointment list must be provided in writing or by posting the list on the county's website.

(b) The appointment list must be provided in writing.

SECTION 5. Section 32.034, Election Code, is amended by adding Subsection (f) to read as follows:

No equivalent provision.

(f) The person who appoints an election clerk under this section shall provide to the county chair of each political party that submitted names for appointment under Subsection (b) the appointment list that includes each appointed clerk's name, precinct, address, and any available telephone number and e-mail address. If the commissioners court appoints a clerk as provided by Subsection (e), the county clerk must provide the appointment list under this section.

SECTION 6. Section 32.051(c), Election Code, is amended to read as follows:

No equivalent provision.

(c) Except as provided by Section 32.0511, to be eligible to serve as a clerk of an election precinct, a person must be a qualified voter and, to the extent practicable, the person should be a qualified voter:

- (1) of the county, in a countywide election ordered by the governor or a county authority or in a primary election;
- (2) of the part of the county in which the election is held, for an election ordered by the governor or a county authority that does not cover the entire county of the person's residence; or
- (3) of the political subdivision, in an election ordered by an authority of a political subdivision other than a county.

SECTION 7. Subchapter D, Chapter 32, Election Code, is amended by adding Section 32.076 to read as follows:

No equivalent provision.

Sec. 32.076. PRESENCE OF OFFICER FROM DIFFERENT POLITICAL PARTY REQUIRED. When the presiding judge is performing any activity within the polling location related to handling ballots or voting machines, counting ballots or recording results, or any similar activity, an alternate presiding judge or clerk whose name was submitted for appointment by a political party other than the party that submitted the presiding judge's name for appointment

must be present to allow the alternate presiding judge or clerk to observe the activity or hear any discussion between election workers.

SECTION 8. Section 85.009(b), Election Code, is amended.

SECTION 9. Subchapter A, Chapter 85, Election Code, is amended by adding Section 85.0091 to read as follows:

Sec. 85.0091. EARLY VOTING ELECTION OFFICERS FOR CERTAIN PARTISAN ELECTIONS. (a) This section applies only to an election that is not held jointly with the general election for state and county officers and is a special election or election for city officers in which a candidate's political party alignment is indicated on the ballot.

(b) The early voting clerk shall select election officers for the main early voting polling place and any branch polling place in the manner that Section 85.009 provides for the county clerk to select officers, except that the early voting clerk shall prescribe the deadline by which county chairs must submit names of persons eligible to serve as election officers.

SECTION 10. Section 172.126(c), Election Code, is amended to read as follows:

(c) One set of election officers shall conduct the primary elections at each polling place. Not later than the second Monday in December preceding the primary elections, each county chair shall deliver to the county clerk a list of the names of the election judges and clerks for that party. The presiding judge of each party, or alternate judge if applicable, serves as a co-judge for the precinct. If an eligible presiding co-judge and alternate co-judge cannot be found to serve for a particular party in a precinct, the county clerk may appoint any voter meeting the qualifications of election judge to serve as the presiding judge in the precinct ~~[a joint primary may not be conducted in that precinct, and that precinct must be consolidated with another precinct~~

SECTION 5. Same as introduced version.

SECTION 6. Subchapter A, Chapter 85, Election Code, is amended by adding Section 85.0091 to read as follows:

Sec. 85.0091. EARLY VOTING ELECTION OFFICERS FOR PRIMARY ELECTIONS.

(a) The early voting clerk shall select election officers for a primary election for the main early voting polling place and any branch polling place in the manner that Section 85.009 provides for the county clerk to select officers from the appropriate political party, except that the early voting clerk shall prescribe the deadline by which county chairs must submit names of persons eligible to serve as election officers.

(b) This section does not apply to a joint primary governed by Section 172.126.

No equivalent provision.

~~that has an eligible presiding co-judge and alternate co-judge to serve for each party].~~
The county clerk shall appoint the election clerks in accordance with rules prescribed by the secretary of state. The secretary of state shall prescribe the maximum number of clerks that may be appointed for each precinct. The early voting ballot board and any central counting station shall also be composed of and administered by one set of election officers that provides representation for each party, and the secretary of state by rule shall prescribe procedures consistent with this subsection for the appointment of those officers.

SECTION 11. Sections 32.006(b), 32.010, and 32.0511(d), Election Code, are repealed.

SECTION 12. This Act takes effect September 1, 2015.

SECTION 7. Same as introduced version.

SECTION 8. Same as introduced version.