

CONFERENCE COMMITTEE REPORT FORM

Austin, Texas

5/26/17
Date

Honorable Dan Patrick
President of the Senate

Honorable Joe Straus
Speaker of the House of Representatives

Sirs:

We, Your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on SENATE BILL 5 have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

Joan Huffman
SENATOR HUFFMAN, CHAIR

Paul Bettencourt
SENATOR BETTENCOURT

Bryan Hughes
SENATOR HUGHES

Adrian Lucio Jr.
SENATOR LUCIO

Joe Nelson
SENATOR NELSON

On the part of the Senate

Phil King
REP. KING, CHAIR

Phil King
REP. KING

King/oldman
REP. GOLDMAN

Adrian Lucio
REP. LUCIO

On the part of the House

Note to Conference Committee Clerk:

Please type the names of the members of the Conference Committee under the lines provided for signature. Those members desiring to sign the report should sign each of the six copies. Attach a copy of the Conference Committee Report and a Section by Section side by side comparison to each of the six reporting forms. The original and two copies are filed in house of origin of the bill, and three copies in the other house.

CONFERENCE COMMITTEE REPORT

3rd Printing

S.B. No. 5

A BILL TO BE ENTITLED

1 AN ACT

2 relating to requiring a voter to present proof of identification;
3 providing a criminal penalty and increasing a criminal penalty.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

5 SECTION 1. Subchapter A, Chapter 31, Election Code, is
6 amended by adding Section 31.013 to read as follows:

7 Sec. 31.013. MOBILE LOCATIONS FOR OBTAINING
8 IDENTIFICATION. (a) The secretary of state shall establish a
9 program using mobile units to provide election identification
10 certificates to voters for the purpose of satisfying the
11 requirements of Section 63.001(b). A mobile unit may be used at
12 special events or at the request of a constituent group.

13 (b) In establishing the program, the secretary of state
14 shall consult with the Department of Public Safety on the creation
15 of the program, security relating to the issuance of an election
16 identification certificate, best practices in issuing an election
17 identification certificate, and equipment required to issue an
18 election identification certificate.

19 (c) The secretary of state may not charge a fee to a group
20 that requests a mobile unit established under this section.

21 (d) If the secretary of state cannot ensure the required
22 security or other necessary elements of the program, the secretary
23 of state may deny a request for a mobile unit established under this
24 section.

1 (e) The secretary of state shall adopt rules necessary for
2 the implementation of this section.

3 SECTION 2. Section 63.001, Election Code, is amended by
4 amending Subsections (b), (d), and (e) and adding Subsections (c-1)
5 and (i) to read as follows:

6 (b) Except as provided by Subsection (h), on offering to
7 vote, a voter must present to an election officer at the polling
8 place:

9 (1) one form of photo identification listed in
10 [described by] Section 63.0101(a); or

11 (2) one form of identification listed in Section
12 63.0101(b) accompanied by the declaration described by Subsection
13 (i) [63.0101].

14 (c-1) An election officer may not refuse to accept
15 documentation presented to meet the requirements of Subsection (b)
16 solely because the address on the documentation does not match the
17 address on the list of registered voters.

18 (d) If, as determined under Subsection (c), the voter's name
19 is on the precinct list of registered voters and the voter's
20 identity can be verified from the documentation presented under
21 Subsection (b), the voter shall be accepted for voting. An election
22 officer may not question the reasonableness of an impediment sworn
23 to by a voter in a declaration described by Subsection (i).

24 (e) On accepting a voter, an election officer shall indicate
25 beside the voter's name on the list of registered voters that the
26 voter is accepted for voting. If the voter executes a declaration
27 of reasonable impediment to meet the requirement for identification

1 under Subsection (b), the election officer must affix the voter's
2 voter registration number to the declaration either in numeric or
3 bar code form.

4 (i) If the requirement for identification prescribed by
5 Subsection (b)(1) is not met, an election officer shall notify the
6 voter that the voter may be accepted for voting if the voter meets
7 the requirement for identification prescribed by Subsection (b)(2)
8 and executes a declaration declaring the voter has a reasonable
9 impediment to meeting the requirement for identification
10 prescribed by Subsection (b)(1). A person is subject to
11 prosecution for perjury under Chapter 37, Penal Code, or Section
12 63.0013 for a false statement or false information on the
13 declaration. The secretary of state shall prescribe the form of the
14 declaration. The form shall include:

15 (1) a notice that a person is subject to prosecution
16 for perjury under Chapter 37, Penal Code, or Section 63.0013 for a
17 false statement or false information on the declaration;

18 (2) a statement that the voter swears or affirms that
19 the information contained in the declaration is true, that the
20 person described in the declaration is the same person appearing at
21 the polling place to sign the declaration, and that the voter faces
22 a reasonable impediment to procuring the identification prescribed
23 by Subsection (b)(1);

24 (3) a place for the voter to indicate one of the
25 following impediments:

26 (A) lack of transportation;

27 (B) lack of birth certificate or other documents

1 needed to obtain the identification prescribed by Subsection
2 (b)(1);

3 (C) work schedule;

4 (D) lost or stolen identification;

5 (E) disability or illness;

6 (F) family responsibilities; and

7 (G) the identification prescribed by Subsection
8 (b)(1) has been applied for but not received;

9 (4) a place for the voter to sign and date the
10 declaration;

11 (5) a place for the election judge to sign and date the
12 declaration;

13 (6) a place to note the polling place at which the
14 declaration is signed; and

15 (7) a place for the election judge to note which form
16 of identification prescribed by Subsection (b)(2) the voter
17 presented.

18 SECTION 3. Chapter 63, Election Code, is amended by adding
19 Section 63.0013 to read as follows:

20 Sec. 63.0013. FALSE STATEMENT ON DECLARATION OF REASONABLE
21 IMPEDIMENT. (a) A person commits an offense if the person
22 intentionally makes a false statement or provides false information
23 on a declaration executed under Section 63.001(i).

24 (b) An offense under this section is a state jail felony.

25 SECTION 4. Section 63.004(a), Election Code, is amended to
26 read as follows:

27 (a) The secretary of state may prescribe forms that combine

1 the poll list, the signature roster, or any other form used in
2 connection with the acceptance of voters at polling places with
3 each other or with the list of registered voters. The secretary
4 shall prescribe any special instructions necessary for using the
5 combination forms. The combination forms must include space for an
6 election officer to indicate whether a voter executed a declaration
7 of reasonable impediment under Section 63.001(i).

8 SECTION 5. Section 63.0101, Election Code, is amended to
9 read as follows:

10 Sec. 63.0101. DOCUMENTATION OF PROOF OF IDENTIFICATION.

11 (a) The following documentation is an acceptable form of photo
12 identification under this chapter:

13 (1) a driver's license, election identification
14 certificate, or personal identification card issued to the person
15 by the Department of Public Safety that has not expired or that
16 expired no earlier than four years [~~60 days~~] before the date of
17 presentation;

18 (2) a United States military identification card that
19 contains the person's photograph that has not expired or that
20 expired no earlier than four years [~~60 days~~] before the date of
21 presentation;

22 (3) a United States citizenship certificate issued to
23 the person that contains the person's photograph;

24 (4) a United States passport book or card issued to the
25 person that has not expired or that expired no earlier than four
26 years [~~60 days~~] before the date of presentation; or

27 (5) a license to carry a handgun issued to the person

1 by the Department of Public Safety that has not expired or that
2 expired no earlier than four years [~~60 days~~] before the date of
3 presentation.

4 (b) The following documentation is acceptable as proof of
5 identification under this chapter:

6 (1) a government document that shows the name and
7 address of the voter, including the voter's voter registration
8 certificate;

9 (2) one of the following documents that shows the name
10 and address of the voter:

11 (A) a copy of a current utility bill;

12 (B) a bank statement;

13 (C) a government check; or

14 (D) a paycheck; or

15 (3) a certified copy of a domestic birth certificate
16 or other document confirming birth that is admissible in a court of
17 law and establishes the person's identity.

18 (c) A person 70 years of age or older may use a form of
19 identification listed in Subsection (a) that has expired for the
20 purposes of voting if the identification is otherwise valid.

21 SECTION 6. Section 63.012(b), Election Code, is amended to
22 read as follows:

23 (b) An offense under this section is a Class A [~~B~~]
24 misdemeanor.

25 SECTION 7. Section 272.011(b), Election Code, is amended to
26 read as follows:

27 (b) The secretary of state shall prepare the translation for

1 election materials required to be provided in a language other than
2 English or Spanish for the following state prescribed voter forms:

3 (1) voter registration application form required by
4 Section 13.002;

5 (2) the confirmation form required by Section 15.051;

6 (3) the voting instruction poster required by Section
7 62.011;

8 (4) the reasonable impediment declaration required by
9 Section 63.001(b);

10 (5) the statement of residence form required by
11 Section 63.0011;

12 (6) [~~5~~] the provisional ballot affidavit required
13 by Section 63.011;

14 (7) [~~6~~] the application for a ballot by mail
15 required by Section 84.011;

16 (8) [~~7~~] the carrier envelope and voting
17 instructions required by Section 86.013; and

18 (9) [~~8~~] any other voter forms that the secretary of
19 state identifies as frequently used and for which state resources
20 are otherwise available.

21 SECTION 8. Section 521A.001(a), Transportation Code, is
22 amended to read as follows:

23 (a) The department shall issue an election identification
24 certificate to a person who states that the person is obtaining the
25 certificate for the purpose of satisfying Section 63.001(b),
26 Election Code, and does not have another form of identification
27 described by Section 63.0101(a) [~~63.0101~~], Election Code, and:

1 (1) who is a registered voter in this state and
2 presents a valid voter registration certificate; or

3 (2) who is eligible for registration under Section
4 13.001, Election Code, and submits a registration application to
5 the department.

6 SECTION 9. This Act takes effect January 1, 2018.

Senate Bill 5
Conference Committee Report
Section-by-Section Analysis

SENATE VERSION

HOUSE VERSION (IE)

CONFERENCE

SECTION 1. Subchapter A, Chapter 31, Election Code, is amended by adding Section 31.013.

No equivalent provision.

No equivalent provision.

No equivalent provision.

SECTION 2. Section 63.001, Election Code, is amended by amending Subsections (b), (d), and (e) and adding Subsection (i).

SECTION 3. Chapter 63, Election Code, is amended by adding Section 63.0013 to read as follows:
Sec. 63.0013. FALSE STATEMENT ON DECLARATION

SECTION 1. Same as Senate version except also adds Section 31.014 relating to a voter turnout strategic plan. [FA10(2)]

SECTION __. The secretary of state shall adopt the strategic plan under Section 31.014, Election Code, as added by this Act, not later than January 1, 2018, to be fully implemented not later than December 31, 2022. [FA10(3)]

SECTION __. Subchapter A, Chapter 31, Election Code, is amended by adding Section 31.014 relating to a report on expenditures for voter education programs. [FA26]

SECTION __. Not later than December 1, 2017, the secretary of state shall prepare a report on the expenditures of the 2016 general election voter education programs, including all the information required by Section 31.014, Election Code, as added by this Act, and deliver the report to the committees of each house of the legislature with jurisdiction over elections. [FA26]

SECTION 2. Same as Senate version except also adds Subsection (c-1) prohibiting an election officer from refusing to accept documentation presented to meet certain identification requirements solely because the address on the documentation does not match the address on the list of registered voters. [FA5]

SECTION 3. Same as Senate version except makes the offense a *Class A misdemeanor*. [FA14]

SECTION 1. Same as Senate version.

Same as Senate version.

Same as Senate version.

Same as Senate version.

SECTION 2. Same as House version.

SECTION 3. Same as Senate version except makes the offense a *state jail felony*.

Senate Bill 5
Conference Committee Report
Section-by-Section Analysis

SENATE VERSION

HOUSE VERSION (IE)

CONFERENCE

OF REASONABLE IMPEDIMENT. (a) A person commits an offense if the person intentionally makes a false statement or provides false information on a declaration executed under Section 63.001(i).

(b) An offense under this section is a *felony of the third degree*.

SECTION 4. Section 63.004(a), Election Code, is amended.

SECTION 4. Same as Senate version.

SECTION 4. Same as Senate version.

SECTION 5. Section 63.0101, Election Code, is amended. Among other things, provides for a Subsection (a) to read as follows:

SECTION 5. Same as Senate version except specifies expiration no earlier than *four years* and specifies a *United States passport book or card*. [FA15, FA16]

SECTION 5. Same as House version.

(a) The following documentation is an acceptable form of photo identification under this chapter:

(1) a driver's license, election identification certificate, or personal identification card issued to the person by the Department of Public Safety that has not expired or that expired no earlier than two years [~~60 days~~] before the date of presentation;

(2) a United States military identification card that contains the person's photograph that has not expired or that expired no earlier than two years [~~60 days~~] before the date of presentation;

(3) a United States citizenship certificate issued to the person that contains the person's photograph;

(4) a *United States passport* issued to the person that has not expired or that expired no earlier than two years [~~60 days~~] before the date of presentation; or

(5) a license to carry a handgun issued to the person by the Department of Public Safety that has not expired or that expired no earlier than two years [~~60 days~~] before the date of presentation.

Senate Bill 5
Conference Committee Report
Section-by-Section Analysis

SENATE VERSION

HOUSE VERSION (IE)

CONFERENCE

No equivalent provision.

SECTION __.Section 63.012(b), Election Code, is amended to read as follows:

SECTION 6. Same as House version except conforms to certain drafting conventions.

(b) An offense under this section is a Class A [B] misdemeanor. [FA17]

SECTION 6. Section 272.011(b), Election Code, is amended.

SECTION 6. Same as Senate version.

SECTION 7. Same as Senate version.

SECTION 7. Section 521A.001(a), Transportation Code, is amended.

SECTION 7. Same as Senate version.

SECTION 8. Same as Senate version.

SECTION 8. This Act takes effect January 1, 2018.

SECTION 8. Same as Senate version.

SECTION 9. Same as Senate version.

**LEGISLATIVE BUDGET BOARD
Austin, Texas**

FISCAL NOTE, 85TH LEGISLATIVE REGULAR SESSION

May 27, 2017

TO: Honorable Dan Patrick, Lieutenant Governor, Senate
Honorable Joe Straus, Speaker of the House, House of Representatives

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: SB5 by Huffman (Relating to requiring a voter to present proof of identification; providing a criminal penalty and increasing a criminal penalty.), **Conference Committee Report**

<p>No significant fiscal implication to the State is anticipated.</p>
--

The bill would amend the Election Code and the Transportation Code relating to requiring a voter to present proof of identification.

This analysis assumes the provisions of the bill addressing felony sanctions for criminal offenses would not result in a significant impact on state correctional agencies. The Secretary of State and the Department of Public Safety assume any additional work associated with implementing the provisions of the bill could be absorbed using existing resources.

The bill would take effect January 1, 2018.

Local Government Impact

El Paso County reports minor fiscal implication relating to printing of new postings and declarations at polling sites at a cost of approximately \$2,000. Last election the county opted to mail a flyer to voters about the new ID law at a cost of \$50,000. Hunt, Travis, and Webb Counties estimates no significant fiscal impact.

A Class A misdemeanor is punishable by a fine of not more than \$4,000, confinement in jail for a term not to exceed one year, or both. Costs associated with enforcement, prosecution and confinement could likely be absorbed within existing resources. Revenue gain from fines imposed and collected is not anticipated to have a significant fiscal implication.

Source Agencies: 307 Secretary of State, 405 Department of Public Safety

LBB Staff: UP, ASa, LBO, AG, NV, LM, JAW, BM

LEGISLATIVE BUDGET BOARD
Austin, Texas

CRIMINAL JUSTICE IMPACT STATEMENT

85TH LEGISLATIVE REGULAR SESSION

May 27, 2017

TO: Honorable Dan Patrick, Lieutenant Governor, Senate
Honorable Joe Straus, Speaker of the House, House of Representatives

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: SB5 by Huffman (Relating to requiring a voter to present proof of identification; providing a criminal penalty and increasing a criminal penalty.), **Conference Committee Report**

The provisions of the bill addressing felony sanctions are the subject of this analysis. The bill would amend the Election Code to allow voters unable to provide photo identification to provide instead alternate identification in conjunction with a sworn or affirmed declaration of reasonable impediment. Under the provisions of the bill, an individual who provided a false statement or provided false information on the declaration would be subject to prosecution for perjury, which includes aggravated perjury, a third degree felony. The bill would also make intentionally making a false statement or providing false information of reasonable impediment punishable as a third degree felony. These offenses range from a Class A misdemeanor to a third degree felony.

A third degree felony is punishable by confinement in prison for a term from 2 to 10 years and, in addition to confinement, an optional fine not to exceed \$10,000.

Expanding the list of behaviors for which a criminal penalty is applied and creating an offense are expected to result in increased demands upon the correctional resources of counties or of the State due to a potential increase in the number of individuals placed under supervision in the community or sentenced to a term of confinement within state correctional institutions. This analysis assumes the provisions of the bill addressing felony sanctions would not result in a significant impact on the demand for state correctional resources. In fiscal year 2016, 53 individuals were arrested, 11 were placed under felony community supervision, and 10 were admitted into state correctional institutions for the offense of aggravated perjury under existing statute.

Source Agencies:

LBB Staff: UP, LM, KJo, AKU

**Certification of Compliance with
Rule 13, Section 6(b), House Rules of Procedure**

Rule 13, Section 6(b), House Rules of Procedure, requires a copy of a conference committee report signed by a majority of each committee of the conference to be furnished to each member of the committee in person or, if unable to deliver in person, by placing a copy in the member's newspaper mailbox at least one hour before the report is furnished to each member of the house under Rule 13, Section 10(a). The paper copies of the report submitted to the chief clerk under Rule 13, Section 10(b), must contain a certificate that the requirement of Rule 13, Section 6(b), has been satisfied, and that certificate must be attached to the copy of the report furnished to each member under Rule 13, Section 10(d). Failure to comply with this requirement is not a sustainable point of order under Rule 13.

I certify that a copy of the conference committee report on SB 5 was furnished to each member of the conference committee in compliance with Rule 13, Section 6(b), House Rules of Procedure, before submission of the paper copies of the report to the chief clerk under Rule 13, Section 10(b), House Rules of Procedure.

Phil King

(name)

17R337(3)

5/26/17

(date)