

BILL ANALYSIS

H.B. 2909
By: Klick
Elections
Committee Report (Unamended)

BACKGROUND AND PURPOSE

It has been noted that certain election practices and procedures are in need of clarification and modernization. H.B. 2909 seeks to address these issues, among others, by updating and clarifying the law pertaining to the applicable elections.

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

H.B. 2909 amends the Election Code to authorize a delivery, submission, or filing of a document with an authority having administrative responsibility with regard to elections to be made by email. The bill extends the deadline by which a second election must be held to resolve a tie and provides for the casting of lots or the withdrawal of a candidate to resolve a tie not otherwise resolved by a recount. The bill requires a written statement of withdrawal from a tying candidate to be signed and sworn to by the candidate and provides for the circumstances under which the automatic recount is not conducted and the casting of lots is not held based on when that statement is received.

H.B. 2909 establishes that provisions relating to a runoff election day supersede a law outside Election Code provisions relating to those elections. The bill creates an exception for a runoff election for a special election to fill a vacancy in the United States Congress or a vacancy in the state legislature that is ordered as an emergency election or an expedited election from the requirement to be held during a certain timeframe after the canvass of the main election is completed.

H.B. 2909 revises the applicability of certain provisions governing the election of unopposed candidates based on whether an at-large proposition appears on the ballot. The bill requires notice of an election ordered by the governor to be given by the prescribed method for publication in certain newspapers and expands that requirement to apply to notice of an election ordered by any county authority.

H.B. 2909 requires the voter registrar to make appropriate corrections in the voter registration records, including, if necessary, deleting a voter's name from the suspense list after notification of a data entry error that caused the voter's name to not appear on the list of registered voters of which the registrar is made aware. The bill prohibits a contract under which the governing body

of a political subdivision performs election services for a county election officer from changing the political subdivision's requirement to maintain office hours during the election period. The bill removes the prohibition against an election services contract changing the authority that serves as the custodian of voted ballots or other election records.

H.B. 2909 repeals the requirement that the county election officer file a copy of the secretary of state's approval of an election services contract with each copy of a contract with the county executive committee of a political party if the approval is in a separate document. The bill requires a county election officer of each county to hold a meeting with the county chair of each political party to discuss, for each primary election or general election for state and county officers, as appropriate: holding a joint primary, entering into an election services contract, and polling place locations.

H.B. 2909 requires the public training program that the county clerk is required to provide for election judges and clerks appointed to serve in elections ordered by the governor or a county authority to include specific procedures related to the early voting ballot board and the central counting station, as applicable. The bill extends the application of certain provisions relating to the hours of service at an early voting ballot board meeting to apply also to a signature verification committee meeting.

H.B. 2909 requires an election ordered by the governor to be held on the first Saturday in May in an even-numbered year and applies the exemption from the uniform election date requirement to any runoff election resulting from a governor-ordered emergency election. The bill expands the elections to which the countywide polling place program applies. The bill revises provisions relating to the form of a ballot regarding the shape of the space to be filled in and instructions for doing so and requires secretary of state approval for any variation from those instructions. The bill requires an authority conducting a drawing to determine the order of the candidate's names on a ballot to provide the required written notice of the drawing to each candidate at the time the candidate files an application with the appropriate authority or by telephone or email if a telephone number or email address is provided, respectively, on the candidate's application.

H.B. 2909 sets out procedures for confirming the registration status of a voter not on the precinct list and accepting a voter whose identity has been verified. The bill extends the period for a county voter registrar to review a provisional voter's eligibility for an election held on the date of the general election for state and county officers. The bill establishes that provisional voting records are not available for public inspection until the first business day after the date the early voting ballot board completes the verification and counting of provisional ballots and delivers the provisional ballots and other provisional voting records to the general custodian of election records.

H.B. 2909 makes a qualified voter eligible for early voting by mail if, at the time the voter's early voting ballot application is submitted, the voter is a person who is civilly committed as a sexually violent predator and is ordered as a condition of civil commitment to reside in a facility operated by or under contract with the Texas Civil Commitment Office. The bill provides for certain information to be included with an application for an early voting ballot to be voted by mail on the ground of involuntary civil commitment.

H.B. 2909 requires public notice of the time for voting in a primary election or the general election for state and county officers to be posted by the secretary of state on the secretary's website. The bill makes the early voting clerk of a county with a population of 100,000 or more but less than 120,000 responsible for establishing one or more early voting polling places other than the main early voting polling place in certain precincts for certain elections. The bill requires a county clerk, in an election of a political subdivision located in a county in which the county clerk is not the early voting clerk, to provide the applicable early voting clerk copies of the applications for an annual ballot to be voted by mail submitted by voters in the portion of the political subdivision located in the county. The bill requires an early voting clerk to include with

the balloting materials a notice of the clerk's physical address for purposes of return by personal delivery and the list of declared write-in candidates for the election, if applicable. The bill authorizes a voter to deliver a marked ballot for early voting by mail in person to the early voting clerk's office while the polls are open during the early voting period.

H.B. 2909 specifies that provisions relating to a determination of how a corrected ballot is treated are based on whether the ballot is timely returned to the early voting clerk by the close of the polls on election day. The bill clarifies that provisions relating to the delivery of the jacket envelopes containing the early voting ballots voted by mail and the counting of those ballots for an election conducted by the authority of a county with a population of 100,000 or more or conducted jointly with such a county apply also to an election conducted with such a county through a contract for election services. The bill removes the requirement for early voting regular paper ballots cast in an election that are to be duplicated to be delivered to the central counting station in a prescribed manner. The bill makes a person eligible for early voting by mail if the person is a member of the Texas National Guard or the National Guard of another state or a member of a reserve component of the U.S. armed forces serving on active duty under an order of the president of the United States or activated on state orders, or the spouse or dependent of a member who is otherwise qualified to vote in Texas. The bill requires the secretary of state to coordinate with county election officials in implementing an electronic free-access system for persons eligible for early voting by mail under provisions relating to voting by resident federal postcard applicant or to voting federal ballot by overseas citizen.

H.B. 2909 revises provisions relating to the method for submitting a federal postcard application for a ballot for early voting by mail and the conditions under which such an application is considered to be submitted in the following calendar year. The bill repeals a provision limiting the applicability of provisions relating to the submission by personal delivery of an application for a ballot to be voted by mail. The bill clarifies that an application with a single federal postcard for a ballot for more than one election applies to a runoff election that occurs in the next calendar year. The bill conforms the deadlines for the submission of a request for the email transmission of early voting balloting materials by a resident federal postcard applicant and for a presidential ballot to be voted by mail with the deadline for electronic transmission of an application for a ballot to be voted by mail.

H.B. 2909 revises provisions relating to the timeframe within which a challenge for compliance with the applicable requirements as to form, content, and procedure on an application for a place on the ballot may be made. The bill makes statutory provisions relating to an administrative declaration of the ineligibility of a candidate for public office inapplicable to such a challenge. The bill establishes that the residence address and voter registration address of a signer of a petition filed in connection with a candidate's application for a place on the ballot are not required to be the same if the signer would otherwise be able to vote for that office. The bill provides for the designation of an email address by an authority with whom an application for a place on the ballot must be filed for purposes of filing the application and for filing by email certain applications for a place on the ballot for an office of a home-rule city and of a political subdivision other than a county or a city.

H.B. 2909 establishes that, for cities conducting recall elections, a vacancy in the officer's office occurs on the date of the final canvass of a successful recall election. The bill extends by 14 days the period within which an emergency election to fill a vacancy in the state legislature must be held.

H.B. 2909 provides for the use of email for purposes of the general requirements for a document requesting a recount and for the designation of an agent to receive notice of the time and place of the recount in behalf of a person making the request. The bill requires a petition for an initial recount to be submitted by 5 p.m. of the second day after the date the canvass of the original election is completed. The bill changes the date on which the recount supervisor must order the recount to be held. The bill sets the deadline for submission of a recount petition at 2 p.m. of the

first day after the date of the local canvass. The bill sets the amount of the deposit for costs of a recount at \$60 for each of the entity's election day polling places in which regular paper ballots were used and at \$100 for each of the entity's election day polling places in which an electronic voting system was used. The bill provides for the order of a recount by the applicable authority under provisions relating to initiating an automatic recount.

H.B. 2909 requires a person, to be eligible to serve as a bilingual election clerk, to be a qualified voter of Texas and satisfy any additional eligibility requirements prescribed by written order of the commissioners court or meet the eligibility requirements of a student election clerk. The bill establishes that the signature of a voter whose name appears on the list of registered voters with the notation "S" or a similar notation is considered valid if the voter is otherwise eligible to vote in the territory and provides a residence address located in the territory.

H.B. 2909 repeals the prohibition against an election precinct established for an election ordered by a city authority from dividing a county election precinct except as necessary to follow the city's boundary, provisions relating to a state write-in ballot, and provisions relating to applicability of provisions relating to the deadline for a candidate to withdraw from an election.

H.B. 2909 repeals the following provisions of the Election Code:

- Section 31.099(b)
- Section 42.061(c)
- Section 84.008(b)
- Section 87.101
- Section 105.002
- Section 145.092(e)
- Section 5, Chapter 404 (H.B. 25), Acts of the 85th Legislature, Regular Session, 2017, which amended Section 105.002(c), Election Code

EFFECTIVE DATE

September 1, 2019.