

BILL ANALYSIS

C.S.H.B. 3970
By: Vasut
Elections
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Concerns have been raised regarding the integrity of elections in Texas following the most recent general election. In order for the electorate to maintain confidence in the electoral process, measures need to be taken to ensure that elections in Texas remain fair, accessible to all eligible voters, and free of interference. C.S.H.B. 3970 seeks to promote transparency, accountability, and integrity in the electoral process by revising certain procedures for counting, accepting, scanning, and storing ballots.

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. 3970 amends the Election Code to require the early voting ballot board to inspect and open each jacket envelope and carrier envelope for an early voting ballot voted by mail to determine whether to accept the ballot for counting, except that the bill prohibits the board from opening the carrier envelope of such a ballot that is rejected for failing to satisfy certain applicable requirements. The bill prohibits the board and the signature verification committee from opening the official ballot envelope of an accepted ballot that is to be counted at a central counting station.

C.S.H.B. 3970 entitles a poll watcher to observe the acceptance of early voting ballots voted by mail, including the work of the early voting ballot board and any signature verification committee. The poll watcher must be able to determine how the ballots are opened and distributed and how the early voting ballot board and any signature verification committee are making decisions about the acceptance of ballots, if applicable. The bill requires poll watchers to comply with all applicable Election Code provisions when carrying out these duties.

C.S.H.B. 3970 provides for the waiver of certain requirements regarding the disposition and retention of an application for an early voting ballot by mail if the applicable application, including any federal postcard application, and the cover sheet are maintained and retrievable in an electronic format for at least 22 months from the date of the last election to which those documents were applicable.

C.S.H.B. 3970 requires the presiding judge and the alternate presiding judge of the central counting station to be present to observe the process of scanning early voting regular paper

ballots to be put into a format that allows the ballots to be counted by automatic counting equipment at the central counting station. The bill authorizes a ballot that is damaged or unreadable by the scanning equipment to be duplicated by a team of two people in the manner designated and provided by the bill. The bill authorizes the presiding and alternate judges to inspect both the original and the duplicate ballot to verify the accuracy of the duplication and requires each member of the duplication team to sign and print their names in a legible manner in a log of duplications. If the automatic counting equipment discovers an overvote in a scanned ballot, the presiding and alternate judges, with the assistance of their clerks, must examine the ballot and jointly determine the intention of the voter. If the judges are unable to make a determination of the voter's intention, the vote in the race in which the overvote appears may not be counted. However, the votes in the other races on the ballot must be counted.

C.S.H.B. 3970 entitles a poll watcher to observe the work of the central counting station, including the counting of ballots. The poll watcher must be able to determine how the ballots are counted and how the presiding and alternate judges of the central counting station are making decisions about the acceptance of ballots, if applicable. The bill requires poll watchers to comply with all applicable Election Code provisions when carrying out these duties.

EFFECTIVE DATE

September 1, 2021.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 3970 may differ from the original in minor or nonsubstantive ways, the following summarizes the substantial differences between the introduced and committee substitute versions of the bill.

The original prohibited the early voting ballot board and the signature verification committee from opening the official ballot envelope of an accepted ballot. The substitute limits this prohibition to a ballot that is to be counted at a central counting station.

The original prohibited poll watchers from disrupting the processes of accepting early voting ballots voted by mail or counting ballots at a central counting station, whereas the substitute requires poll watchers to comply with all Election Code provisions when observing those processes.

The original required representatives appointed by party chairs to observe the process of scanning paper ballots for automatic counting, whereas the substitute requires the presiding and alternate presiding judges to observe this process.

The original required a damaged or unreadable ballot to be duplicated by a team of at least two people to be chosen from a list of designees, whereas the substitute merely provides for the designation of teams of two people without specifying a designation method. The substitute adds a specification that the process for duplication of damaged or unreadable ballots by teams of two people applies to the general election for state and county officers.