C.S.H.B. 4459
By: Swanson
Elections
Committee Report (Substituted)

BACKGROUND AND PURPOSE

There have been concerns raised regarding the security of elections in Texas, particularly with regard to election equipment and data. Furthermore, it has been suggested that enacting measures to shore up requirements relating to election equipment and systems will go a long way to ensuring elections in Texas remain secure and fair. C.S.H.B. 4459 seeks to address this issue by revising provisions relating to the certification of voting system equipment used to accept voters and imposing strengthened requirements on those systems and equipment.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill expressly does one or more of the following: creates a criminal offense, increases the punishment for an existing criminal offense or category of offenses, or changes the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is expressly granted to the secretary of state in SECTION 1 of this bill.

ANALYSIS

C.S.H.B. 4459 amends the Election Code to include the following functions among the requirements and standards prescribed by the secretary of state for the certification of an electronic device used to accept voters:
- performing a self-assessment on starting up to ensure functionality and connectivity;
- maintaining a secure wireless connection that does not transmit or store data on any device or medium located outside Texas; and
- producing requisite data in an electronic format capable of updating in real time.

The bill prohibits the secretary of state from certifying a device that does not perform each required function to which those requirements and standards apply. The bill requires the secretary of state to adopt rules requiring such a device to update data in not more than 10 minutes and requiring a county that uses the device to use each function the device is required to perform.

C.S.H.B. 4459 replaces the requirement for the secretary of state to assess a noncompliance fee for a county that uses a device that does not comply with adopted rules in two consecutive general elections for state and county officers with a requirement for the secretary of state to assess such a fee for a county that does not comply with those rules or uses a device in a noncompliant manner in one such election.

C.S.H.B. 4459 requires a voting system in which voting system equipment is designed to be used, beginning September 1, 2021, to have all software and hardware used in the system manufactured, stored, and held in the United States and sold by a company whose headquarters

and parent company's headquarters, if applicable, are located in the United States. The bill requires a contract to acquire voting system equipment from a vendor on or after September 1, 2021, to identify each person or entity that has a five percent or greater ownership interest in the vendor and, if applicable, the vendor's parent company and any subsidiary or affiliate of the vendor.

C.S.H.B. 4459 requires a voting machine or ballot marking device to allow a voter the option to cast or complete the voter's ballot prior to voting on all races or measures if the voter affirmatively chooses to do so. The bill prohibits voting system ballots from being arranged in a manner that allows a political party's candidates to be selected in one motion or gesture and creates a state jail felony offense for a person who arranges a ballot in that manner.

EFFECTIVE DATE

On passage, or, if the bill does not receive the necessary vote, September 1, 2021.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 4459 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 substitute requires a voting system to have all software and hardware used in a system manufactured, stored, and held in the United States, whereas the original applied that requirement to all software and data for a voting system.