

SUBJECT: Expanding countywide voting pilot program to additional counties

COMMITTEE: Elections — committee substitute recommended

VOTE: 6 ayes — T. Smith, Peña, Allen, Anchia, B. Brown, Heflin

0 nays

3 absent — Bohac, Bonnen, Harper-Brown

SENATE VOTE: On final passage, April 9 — 31-0, on Local and Uncontested Calendar

WITNESSES: (*On original Senate bill:*)

For — Patti Jones, Dorothy Kennedy, Bill McCay, Lubbock County;
(*Registered, but did not testify:* Jim Allison, County Judges and
Commissioners Association of Texas; Dana DeBeauvoir, Glen Shuffler,
County and District Clerks Association of Texas; Mark Mendez, Tarrant
County)

Against — Luis Figueroa, Mexican American Legal Defense and
Education Fund

On — Dustin Rynders, Advocacy, Inc.; Elizabeth Winn, Texas Secretary
of State

(*On committee substitute:*)

For — Michael Vasquez, Texas Conference of Urban Counties

Against — Sonia Santana, ACLU Texas

On — Anita Privett, League of Women Voters of Texas

BACKGROUND: Election Code, ch. 43, requires each election precinct be served by a single polling place located within the boundary of the precinct. Voters are assigned a precinct based on their residence. The 79th Legislature in 2005 enacted HB 758 by Denny, which added Election Code, sec. 43.007, establishing a pilot program for counties to use countywide polling places

for certain elections. Currently, only Erath and Lubbock counties have countywide polling locations. Sec. 43.007 will expire on June 1, 2009.

DIGEST:

CSSB 1310 would amend Election Code, ch. 43 to direct the secretary of state to implement a program to allow each commissioners court participating in the program to eliminate county election precinct polling places and establish countywide polling places for:

- each general election for state and county officers;
- each countywide election held on the uniform election date in May;
- each election on a proposed constitutional amendment; and
- each election of a political subdivision located in the county that was held jointly with one of the above elections.

The commissioners court of a county that desired to participate would be required to hold a public hearing and would be required to submit a transcript or electronic recording of the public comments made at the hearing to the secretary of state. A county that had previously participated in a similar program and held a public hearing on the county's participation in that program would not be required to hold another hearing.

The secretary of state would audit direct recording electronic voting units before and after use in an election, and during the election to the extent such an audit was practicable.

The secretary of state would select counties for countywide polling locations that had:

- held a public hearing;
- submitted documentation listing the steps taken to solicit input on participating in the program by organizations or persons who represent the interests of voters;
- implemented a computerized voter registration list that would allow an election officer at the polling place to verify that a voter had not previously voted in the election;
- used direct recording electronic voting machines; and
- been determined by the secretary of state to have the appropriate technological capabilities.

The secretary of state could select to participate in the program three counties with a population of 100,000 or more and two counties with a population of less than 100,000.

Each countywide polling place would be required to allow a voter to vote in the same elections in which the voter would normally vote based on his or her precinct.

In selecting countywide polling places, a county would be required to adopt a methodology for determining polling place locations. The total number of countywide polling places could not be less than:

- 50 percent of the number of precinct polling places that would otherwise be located in the county for that election; or
- for an election held in the first year in which the county participated in the program, 65 percent of the number of precinct polling places that would otherwise would be located in the county for that election.

A county participating in the program would be required to establish a plan to provide notice informing voters of the changes made to the locations of polling places under the program. The plan would require that notice of the location of the nearest countywide polling place be posted at each polling place in the previous general election that would not be used as a countywide polling place.

In adopting a methodology for adopting and siting polling locations, a county would be required to solicit input from representatives of minority voters.

Not later than January 1 of each odd-numbered year, the secretary of state would be required to file a report with the Legislature. The report would include complaints or concerns regarding a specific election filed with the office of the secretary of state and any available information about voter turnout and waiting times at polling places. The report could include the secretary of state's recommendations on the future use of countywide polling places and suggestions for statutory amendment regarding the use of countywide polling places.

The bill would take effect on September 1, 2009.

SUPPORTERS
SAY:

CSSB 1310 would allow additional counties to adopt countywide-polling locations. Early voting has become very popular, especially in larger counties, because early-voting locations are conveniently located in places such as malls and grocery stores. However, voters who want to cast their ballot on election day are required to vote in their assigned polling locations. This often can be a burden because many individuals, especially those who work far from home, must return to their precincts to vote on election day. The bill would allow more counties to apply the many benefits of the early-voting to election-day voting.

In participating counties, the election-day polling places at each precinct would be replaced with countywide polling places. Concerns about reducing the overall number of polling places are unfounded, as voters would have many convenient voting locations, distributed countywide, from which to choose. Further, those counties adopting countywide voting on election day would be required to have at least 65 percent of the number of precinct polling places that existed in prior elections for the first election using countywide programs. This would ensure an adequate supply of polling locations. Only counties that had the appropriate technological capabilities would be eligible to participate in the pilot program. This potentially could reduce the number of voters who voted in the wrong precinct and whose ballots were not counted because the election workers could not verify that the voters were qualified to vote.

Even without a public hearing, commissioners courts currently have the authority to structure elections to make them more efficient, including through consolidating precincts, reconfiguring precincts, or moving polling places. The public hearing required by the bill would be an additional tool to enable a commissioners court to meet the needs of the voters and could increase voter turnout. The secretary of state, when considering a county's application to implement countywide voting, would check a county's documentation that listed the steps the county took to solicit input on participating in the program by organizations or persons who represented the interests of voters.

Elections are becoming more difficult and expensive for counties to administer. Election workers increasingly are hard to find, and voting technology is becoming more expensive. CSSB 1310 would be a cost-saving measure because reducing the number of polling places would mean that fewer election workers and voting machines would be needed. Securing polling places that comply with the Americans with Disability

Act also is becoming more difficult. This bill would make voting more convenient because it would establish polling places that qualified voters could use no matter what precinct they lived in and were registered to vote in, just like during the early voting period.

CSSB 1310 would allow only five counties, including Erath and Lubbock, to participate in the program. This would ensure that the secretary of state would not be overwhelmed while overseeing the program, and would allow the state to gather a significant set of data before considering implementing the program statewide.

OPPONENTS
SAY:

Voting is an obligation and a privilege. Cost and efficiency should not be the most important considerations a government makes when administering elections. Many voters want to vote on election day at the precinct polling place where they are accustomed to voting. This bill could make voting very confusing for some voters, especially the elderly and minority voters, who may want to vote at their neighborhood school or church. Low-income voters might find it harder to vote if not able to vote in their neighborhood, and as a result could be discouraged from voting.

Even though the commissioners court would have to hold a public hearing before a county would be allowed to implement the program, there still are many voters who would not like the idea but would have no recourse if the commissioners court decided to seek participation in the program anyway.

NOTES:

The committee substitute differs from the Senate bill in that it would require:

- a packet that would have to be sent from a county to the secretary of state that would include the steps taken to solicit input on the program by organizations or persons who represented the interests of voters;
- that in the first year of a county's participation, the total number of countywide polling places could not be less than 65 percent of the number of polling places used in prior elections;
- the county to solicit input from minority voters during the public meeting on development of the methodology used to determine where to locate the polling places;
- the program to be limited to three urban counties and two rural counties; and

- that the report by the secretary of state to the Legislature would include any complaints received and any available information regarding voter turnout and waiting times encountered at the polling locations.