

SUBJECT: Allowing election procedure modifications if federal election laws change

COMMITTEE: State Affairs — favorable, without amendment

VOTE: 7 ayes — Paddie, Harless, Hunter, P. King, Metcalf, Shaheen, Slawson

4 nays — Deshotel, Howard, Lucio, Raymond

2 absent — Hernandez, Smithee

WITNESSES: For — Tom Glass, Texas Constitutional Enforcement; (*Registered, but did not testify*: Ruth York, Tea Party Patriots of Eastland County; Texas Family Defense Committee; Shelia Franklin, True Texas Project; Heather Aitken; and 17 individuals)

Against — (*Registered, but did not testify*: Matt Simpson, ACLU of Texas; David Weinberg, Brennan Center for Justice; Daniel Collins, El Paso County; Ender Reed, Harris County Commissioners Court; Susana Carranza, League of Women Voters of Texas; Fatima Menendez, Mexican American Legal Defense and Educational Fund; Richard Davey; James Slattery, Texas Civil Rights Project; Stephanie Gharakhanian, Workers Defense Action Fund; and 13 individuals)

On — Keith Ingram, Texas Secretary of State

BACKGROUND: Election Code sec. 31.007 establishes the suspension of provisions implementing the National Voter Registration Act of 1993 under certain circumstances. If under federal law, order, regulation, or other official action the National Voter Registration Act of 1993 is not required to be implemented or enforced in whole or in part, an affected state law or rule is suspended to the extent that it was enacted or adopted to implement the federal law. The section states that it is the intent of the Legislature that the applicable law in effect immediately before the enactment or adoption is to be reinstated and continued in effect pending enactment of corrective state legislation.

On a finding by the secretary of state that a suspension of a law or rule has occurred, the secretary may modify procedures as necessary to give effect to the suspension and to reinstatement of the procedures of the former law.

Concerns have been raised about potential federal legislation that could contradict state election laws, and calls have been made to provide for the state's adoption of those federal laws in a way that will not require substantive changes to current voter registration procedures or the conduct of elections.

DIGEST:

HB 4507 would expand current requirements for triggering the suspension of state rules or laws due to requirements that certain federal election laws did not have to be enforced. The suspension of state laws would have to occur if any provision of federal law regarding the registration of voters or conduct of elections was not required to be implemented.

Measures to implement federal law. Pending enactment of conforming state legislation, the secretary of state would have to, after consulting with the chair and vice chair of the Senate and House of Representatives committees with jurisdiction over elections, adopt procedures to conform with federal laws enacted regarding federal elections in a manner which would not substantively modify the procedures for voter registration or conduct of elections other than federal elections provided in the Election Code, except as provided by the bill.

Creation of federal election voter registration system. The secretary of state would be required to establish a federal election voter registration system to comply with federal law, to the extent federal law modified requirements or procedures in the Election Code for voter registration in federal elections.

Anyone registered under this system would not be eligible to vote in any election other than federal elections, unless that person was qualified and registered to vote under Title 2 of the Election Code.

Anyone seeking to register to vote under the federal election voter registration system would have to be notified upon registering that registration to vote in federal elections does not qualify a person to vote in any other election conducted in Texas unless that person registers to vote as provided in the Election Code.

All persons registered to vote as provided by the Election Code would be automatically registered to vote under the federal election voter registration system.

Any voter registration certificate issued or lists of registered voters produced under the federal election voter registration system would have to be clearly marked "Valid for federal elections only."

To the extent federal law modified the conduct of elections for federal office in a manner which substantively conflicted with a provision in the Election Code, the secretary of state would have to modify the uniform election dates and other associated dates and deadlines so that no election other than those for federal offices were held on the same date as any special election for member of Congress, federal primary, federal primary runoff or general election for federal offices.

The bill would take effect September 1, 2021, and would apply only to an application to register to vote submitted on or after that date.