

- SUBJECT:** Allowing election judges to carry handguns at polling sites during voting
- COMMITTEE:** Homeland Security and Public Safety — favorable, without amendment
- VOTE:** 7 ayes — White, Harless, Hefner, E. Morales, Patterson, Schaefer, Tinderholt
2 nays — Bowers, Goodwin
- WITNESSES:** For — James Buntrock, Glorious Way Church; Dee Chambless, Smith County Republican Women; and seven individuals; (*Registered, but did not testify*: Frederick Frazier, Dallas Police Association and State FOP; Angela Smith, Fredericksburg Tea Party; Felisha Bull and Rachel Malone, Gun Owners of America; Tara Mica, National Rifle Association; Brian Hawthorne and AJ Louderback, Sheriffs Association of Texas; and 21 individuals)

Against — Aimee Mobley Turney, League of Women Voters of Texas; Gyl Switzer, Texas Gun Sense; John Robert Behrman; Ling Zhu; (*Registered, but did not testify*: Daniel Collins, County of El Paso; Louis Wichers, Texas Gun Sense; Julie Wheeler, Travis County Commissioners Court)

On — Richard Briscoe, Open Carry Texas; Brad Hodges; (*Registered, but did not testify*: Adam Bitter, Secretary of State; Thomas Parkinson)
- BACKGROUND:** Penal Code sec. 46.03 makes it a third-degree felony (two to 10 years in prison and an optional fine of up to \$10,000) to intentionally, knowingly, or recklessly possess or go with a firearm on the premises of a polling place on the day of an election or while early voting is in progress. Sec. 46.15 specifies that this offense does not apply to peace officers and that peace officers are not prohibited from carrying a weapon.
- DIGEST:** HB 530 would specify that the offense of possessing or going with a firearm on the premises of a polling place would not apply to presiding election judges who possessed a handgun license and were performing

their duties as a judge during early voting or on the day of an election.

The bill would take effect September 1, 2021, and would apply only to an offense committed on or after the bill's effective date.

**SUPPORTERS
SAY:**

CSHB 530 would clarify that the prohibition on carrying handguns in polling places did not apply to presiding election judges. A nonbinding opinion from the attorney general in 2018 found that the offense of carrying firearms in a polling place did not apply to presiding election judges who possessed a handgun license and were performing their duties under the Election Code. The bill would codify the opinion and allow presiding election judges to carry handguns in polling places.

The bill would not lead to voter intimidation but instead provide voters with a sense of security in casting their ballots. Under statute, a peace officer may carry a handgun in a polling place during voting. If a peace officer were unavailable to protect a high-profile or rural polling place, voters could be fearful of entering a gun-free zone without protection. The bill would remedy this problem by allowing election judges, who are performing a public service, to arm themselves in defense of polling sites.

CSHB 530 would address situations where peace officers may not be available to secure an election facility due to the rural location of the facility or staffing shortfalls. Election judges would be required to possess a license to carry a handgun under the bill.

The bill would not lead to the escalation of violence in polling places but rather discourage potential criminals from inciting violence at a polling site on election day or during early voting.

CSHB 530 appropriately would be limited to presiding election judges in line with the attorney general opinion the bill seeks to codify.

**CRITICS
SAY:**

CSHB 530 could lead to voter intimidation by inappropriately allowing partisan election judges to carry handguns in polling places. Texas already has among the lowest voter turnouts in the country, and the state should be

taking actions to expand voter access to the polls rather than creating a chilling effect on potential voters as this bill does.

The bill is unnecessary since peace officers, who are trained to identify and respond to threats, already can carry handguns in polling places to ensure the security and integrity of elections. Election judges would be in no position to use a handgun in a polling place, as they are not trained to respond to threats with firearms. Election judges should only be expected to focus on conducting their election-related duties, not performing the duties of a peace officer. Merely possessing a license to carry does not equip an individual with the proper training to respond to a security threat.

The bill also could create the opportunity for escalations of violence at polling places by injecting guns into a potentially charged environment. This could be a concern given a lack of clarity about whether an election judge could possess a handgun at a polling place located in a school.

The bill could address some of the concerns regarding voter intimidation by requiring any handgun possessed by an election judge at a polling place to be concealed, which could help mitigate the potential chilling effect an openly carried weapon may have on voters.

**OTHER
CRITICS
SAY:**

CSHB 530 would not go far enough and should allow alternate election judges and poll workers to carry a handgun at a polling place during voting. This would allow alternate judges and election workers to protect a polling place if the presiding judge were absent.