

## **BILL ANALYSIS**

Senate Research Center  
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S.B. 6  
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### **DIGEST AND PURPOSE**

Currently, election procedures allow the use of punch card ballot and mechanical lever systems, counties are not required to implement new voting technologies, and recounting procedures as well as laws regulating campaign finances are rather lax. As proposed, S.B. 6 affects election procedures by prohibiting the use of punch card ballots and mechanical lever systems within the next four years, requires new voting technologies to be phased in equally throughout a county, and tightens up recounting procedures. S.B. 6 also makes major changes in campaign finance laws by requiring the reporting of more and better detailed information regarding campaign finances, raising the minimum level of contributions and expenditures required to be reported, changing time limits on reports, changing some penalties, providing for the retention of certain contributions, exempting certain non-reportable contributions and travel as contributions, removing certain unconstitutional waiting period requirements, and requiring out-of-state PACs to file certain notices, rather than a report with the Texas Ethics Commission under certain conditions.

### **RULEMAKING AUTHORITY**

Rulemaking authority is expressly granted to the secretary of state in SECTION 53 of this bill.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Subdivision (20), Section 1.005, Election Code, to make a conforming change.

SECTION 2. Amends Subsection (a), Section 67.012, Election Code, to require the governor to conduct the state canvass not earlier than the 23rd or later than the 35th day after the election day at the time set by the secretary of state, rather than the 15th and 30th day, respectively.

SECTION 3. Amends Subsection (a), Section 85.034, Election Code, to make a conforming change.

SECTION 4. Amends Section 104.001, Election Code, to make a conforming change.

SECTION 5. Amends Section 121.003, Election Code, to redefine "mechanical voting machine," "mechanical machine ballot label," and "voting system ballot label." Deletes the terms "voting device," "punch card ballot label," and "punch card ballot" and their definitions.

SECTION 6. Amends Section 122.001, Election Code, by adding Subsection (d), as follows:

(d) Prohibits a voting system from being used in an election if the system uses a punch-card ballot or a mechanical voting machine designed to function by the manual operation of a lever or similar device.

SECTION 7. Amends Chapter 123A, Election Code, by adding Section 123.0015, as follows:

Sec. 123.0015. NEW VOTING SYSTEM TECHNOLOGIES. Requires any new technology incorporated into a county's adopted voting system in order to upgrade, modify, or

otherwise enhance that system to be implemented proportionately in all the commissioners precincts within that county.

SECTION 8. Amends Section 123.004, Election Code, to make a conforming change.

SECTION 9. Amends Section 123.007, Election Code, to make a conforming change.

SECTION 10. Amends Section 124.031(c), Election Code, to require a ballot label to contain a marking that indicates the identity of the mechanical voting machine to which it is attached.

SECTION 11. Amends Section 124.033(a), Election Code, to make a conforming change.

SECTION 12. Amends Section 124.034(a), Election Code, to make a conforming change.

SECTION 13. Amends Section 124.063, Election Code, to make conforming changes. Deletes existing Subsection (b) regarding an electronic system ballot complying with Subsection (a) by replacing “punch hole” with “mark.” Deletes existing Subsection (d) regarding an electronic system ballot on which a voter indicates a vote by punching a hole in the ballot.

SECTION 14. Amends Section 125.001, Election Code, to make conforming changes.

SECTION 15. Amends Section 125.007, Election Code, to make conforming changes.

SECTION 16. Amends Section 125.031(b) - (e), Election Code, to make conforming changes.

SECTION 17. Amends Section 125.032(b) - (e), Election Code, to make conforming changes.

SECTION 18. Amends Section 125.033(a), Election Code, to make a conforming change.

SECTION 19. Amends Section 125.035(b), Election Code, to make a conforming change.

SECTION 20. Amends Section 125.061(a), Election Code, to make a conforming change.

SECTION 21. Amends Section 126.002(b) and (d), Election Code, to make conforming changes.

SECTION 22. Amends Section 126.003(b) and (c), Election Code, to make conforming changes.

SECTION 23. Amends Section 126.004(b), Election Code, to make a conforming change.

SECTION 24. Amends Section 126.005(a), Election Code, to make a conforming change.

SECTION 25. Amends Section 126.009(c), Election Code, to make conforming changes.

SECTION 26. Amends Section 126.031(b) and (c), Election Code, to make conforming changes.

SECTION 27. Amends Section 126.032(b) - (g), Election Code, to make conforming changes.

SECTION 28. Amends Section 126.033(b) and (c), Election Code, to make conforming changes.

SECTION 29. Amends Section 126.034, Election Code, to make conforming changes.

SECTION 30. Amends Section 126.035(b), Election Code, to make a conforming change.

SECTION 31. Amends Section 212.028, Election Code, to require, for all statewide and district elections, that a petition for an initial recount be submitted by 5 p.m. of the 15th day after election day.

Sets fourth deadlines for filing the petition for elections not subject to this Subsection. Makes a conforming change.

SECTION 32. Amends Section 212.131, Election Code, by amending Subsection (c) and adding Subsection (e) as follows:

(c) Makes a conforming change.

(e) Requires, in a statewide election, that an initial recount of votes cast in a voting system include all the voting system precincts in each county of the state.

SECTION 33. Amends Chapter 212, Election Code, by adding Subchapter G, as follows:

#### SUBCHAPTER G. ORDERING OF RECOUNT

Sec. 212.151. ORDERING OF RECOUNT. Authorizes a commissioners court to order a recount of an election if the court finds that an improper counting program or procedure was used in violation of Title 3, 6, 7, or 8 or that there was an inadvertent failure to count ballots that were properly completed. Requires a recount under this section to be ordered not later than the seventh day after the date of the election. Requires a recount under this section to be conducted according to the provisions of Chapter 213.

Sec. 212.152. PETITION FOR RECOUNT. Requires the commissioners court, to order a recount for a reason not described under Section 212.151, to file a petition in a district court having general jurisdiction in the territory involved for permission to conduct a recount under this subchapter. Requires the petition to be filed not later than the seventh day after the date of the election.

SECTION 34. Amends Section 212.112(a), Election Code, to make conforming changes.

SECTION 35. Amends Section 214.002(b), Election Code, to make a conforming change.

SECTION 36. Amends Section 221.008, Election Code, to make a conforming change.

SECTION 37. Amends Subdivision (2), Section 251.001, Election Code, to redefine “contribution.”

SECTION 38. Amends Section 251.005, Election Code, to make conforming changes. Provides that an out-of-state political committee that files reports with the Federal Election Commission or with the election authority of another state is not required to file such reports with the Texas Ethics Commission (commission) if all of the committee’s reports are available electronically. Requires an out-of-state political committee that elects not to file reports with the commission to file a one-page notice with the commission stating that the committee files reports with the Federal Election Commission or with the election authority of another state and those reports include, for the reporting period, contributions or expenditures made by the committee in Texas.

SECTION 39. Amends Section 252.003(a), Election Code, to delete text regarding a campaign treasurer appointment by a general-purpose committee being required to include the full name and address of each general purpose committee to whom the committee intends to make political contributions.

SECTION 40. Amends Chapter 253A, Election Code, by adding Section 253.006, as follows:

Sec. 253.006. COERCION PROHIBITED. Provides that a person, including a candidate, officeholder, or political committee commits an offense if the person uses or threatens to use physical force, job discrimination, or financial reprisal to obtain a contribution or other thing of

value to be used to influence the result of an election or to assist an officeholder. Makes a conforming change regarding a person who accepts or uses money or any other thing of value that is known by the candidate or officeholder or a decision-making member or officer of the political committee to have been obtained in violation of Subsection (a). Provides that an offense under this section is a third-degree felony.

SECTION 41. Amends Section 253.031, Election Code, to delete text regarding a political committee knowingly making or authorizing a campaign contribution or expenditure supporting or opposing a candidate for office specified by Section 252.005(1) in a primary or general election.

SECTION 42. Amends Section 253.033, Election Code, as follows:

Sec. 253.033. New heading: **CASH CONTRIBUTIONS EXCEEDING \$100 PROHIBITED; ANONYMOUS CONTRIBUTIONS.** Requires a candidate, officeholder, or political committee that receives an anonymous cash contribution in excess of \$50 to promptly disburse the amount over \$50 to one or more of the entities listed in Section 254.204(a)(1), (3), (5), or (6). Authorizes anonymous cash contributions of \$50 or less to be used by the candidate, officeholder, or political committee for any lawful purpose.

SECTION 43. Amends Section 253.063, Election Code, to prohibit unreimbursed travel expenses incurred by an individual from being considered a contribution or a direct campaign expenditure and prohibits such expenses from being reportable under this subchapter or Chapter 254. Deletes text regarding a direct campaign expenditure consisting of personal travel expenses incurred by an individual being authorized to be made without complying with Section 253.062(a)(1).

SECTION 44. Amends Section 253.094, Election Code, by adding Subsection (d), as follows:

(d) Prohibits the provisions of this subchapter from prohibiting any partnership or limited liability company from making a political contribution if the contribution is not charged to the profits interest or capital account of a partner or member that is a corporation described in Section 253.091.

SECTION 45. Amends Section 254.031(a), Election Code, to require, except as otherwise provided by this chapter, each report filed under this chapter to include certain stated factors including information regarding political contributions and persons making such contributions, loans, political expenditures, candidates or officeholders benefitting from direct campaign expenditures, and cash on hand.

SECTION 46. Amends Chapter 254B, Election Code, by adding Section 254.0312, as follows:

Sec. 254.0312. **BEST EFFORTS.** (a) Provides that a person required to file a report under this subchapter is considered to have used best efforts to obtain, maintain, and report the information required by Section 254.031(a)(2) if the person or the person's campaign treasurer complies with this section.

(b) Sets forth guidelines concerning information required in each written solicitation for political contributions from an individual.

(c) Requires the person, for each political contribution received from an individual which, when aggregated with all other political contributions received from the individual during the reporting period, exceeds \$500 and for which the information required by Section 254.031(a)(2) is not provided, to make at least one oral or written request for the missing information. Sets forth guidelines regarding requirements for and prohibitions on such requests.

(d) Requires a request under Subsection (c) that is made in writing to include a clear and conspicuous statement that complies with Subsection(b)(2) and a preaddressed envelope or postcard for responding to the request. Requires a request that is made orally to be documented in writing.

(e) Requires a person to report any information required by Section 254.031(a)(2) that is not provided by the individual making the political contribution and that the person has in the person's records of political contributions or previous reports under this chapter.

SECTION 47. Amends Section 254.038(a), Election Code, to require certain stated persons to file additional reports (in addition to other reports required by this chapter) during the period beginning the ninth day before election day and ending at 12 noon on the second day before election day.

SECTION 48. Amends Chapter 254B, Election Code, by adding Section 254.0381, as follows:

Sec. 254.0381. TELEGRAM REPORT OF CERTAIN DIRECT CAMPAIGN EXPENDITURES. Requires a person that makes direct campaign expenditures that in the aggregate exceed \$5,000 during the period beginning the ninth day before election day and ending at 12 noon on the second day before election day to file a report (in addition to other reports required by this chapter) not later than 48 hours after the expenditure is made. Requires each report required by this section to include the amount of the expenditures, the full name and address and principal occupation of the persons to whom the expenditures are made, and the dates of the expenditures. Requires a report under this section to be filed by telegram or telephonic facsimile machine or by hand. Provides that this section does not apply to a direct campaign expenditure made by the principal political committee of a political party. Provides that Section 254.036 does not apply to a report required by this section.

SECTION 49. Amends Section 254.041(c), Election Code, to provide that a violation of Subsection (a)(1) is a Class A misdemeanor if it is shown on the trial of the offense that the person intentionally failed to file the report on time with knowledge of the legal obligation to file the report. Deletes text referencing Section 254.061(3) and Section 254.091(2).

SECTION 50. Amends Section 254.151, Election Code, to require, in addition to the contents required by Section 254.031, each report by a campaign treasurer of a general-purpose committee to include on a separate page or pages of the report, the identification of certain expenditures made by the committee (or on the committee's behalf) and contributions made to the committee under certain stated conditions, subject to certain stated exceptions.

SECTION 51. Amends Section 257.002, Election Code, by amending Subsection (b) and adding Subsection (c) as follows:

(b) Makes a conforming change.

(c) Requires that nothing in this title prohibit a political party from transferring funds held in the account required to be maintained under Subsection (b) to another account maintained by the political party under the requirements of federal law for the disbursing of the political party's funds generally if the political party can reasonably demonstrate that the funds are being disbursed from the other account in compliance with applicable federal law and for permitted uses and purposes.

SECTION 52. Repealers:     Section 124.061 (Form of Punch-Card Ballot Label), Election Code;  
                                  Section 127.130 (Manual Counting) (d) and (e), Election Code;

Chapter 127G (Preservation of Punch-Card Voting Aids), Election Code; and

Section 253.037 (Restrictions on Contribution or Expenditure by General-Purpose Committee), Election Code.

SECTION 53. (a) Authorizes a political subdivision that on the effective date of this Act uses a voting system that is prohibited by Section 122.001(d), Election Code, as added by this Act, to seek a loan from the secretary of state for the acquisition of a new voting system. Authorizes the secretary of state to provide the loan from any source available to a political subdivision seeking assistance under this section if the secretary determines that the political subdivision will be unable to abandon the use of a punch-card or mechanical lever system without receiving the loan. Requires the secretary of state to adopt rules establishing and regulating the amount, terms, and conditions of loans made under this subsection.

(b) Authorizes the secretary of state and any political subdivision that uses a voting system that is prohibited by Section 122.001(d), Election Code, as added by this Act, to apply for, obtain, and allocate any federal funds, including grants or matching funds, that may be made available for the acquisition of a new voting system.

SECTION 54. Prohibits, notwithstanding the changes in law made by this act, an election, and the results of the election, from being held invalid because of the use of punch-card ballots or mechanical voting machines designed to function by the manual operation of a lever or similar device if the election is held by a political subdivision before September 1, 2005. Provides that the laws pertaining to voting systems as those laws existed immediately before their amendment or repeal by this act are applicable to such election and continue in effect for that purpose.

SECTION 55. Effective date: September 1, 2001.