BILL ANALYSIS

AUTHOR'S/SPONSOR'S STATEMENT OF INTENT

Over the past few legislative sessions, many changes have been made to update the Election Code, as new technology and procedures, such as electronic voting machines, early voting, and provisional voting, have been implemented. During the interim period between the last legislative session and the current one, election officials, candidates, and the secretary of state have come across various ways to make the elections process more efficient and understandable. H.B. 2309 incorporates many of these suggestions by amending provisions in the Election Code relating to certain elections processes and procedures, administration of elections, and the reporting of election returns.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

ARTICLE 1. GENERAL CHANGES IN ELECTION LAW

SECTION 1.01. Amends Section 2.051, Election Code, to reference each candidate for an office that is to appear on a ballot, rather than each candidate whose name is to appear on a ballot.

SECTION 1.02. Amends Section 2.052(a), Election Code, to require the authority responsible for having the official ballot prepared to certify in writing that a candidate is unopposed for election to an office if, were the election to be held, only the votes cast for that candidate in the election for that office may be counted. Deletes existing text specifying procedures for the preparation of a ballot with an unopposed candidate.

SECTION 1.03. Amends Section 2.055(a), Election Code, to make conforming changes.

SECTION 1.04. Amends Section 2.056(c), Election Code, to make conforming changes.

SECTION 1.05. Amends Chapter 4, Election Code, by adding Section 4.008, as follows:

> Sec. 4.008. NOTICE TO COUNTY CLERK. Requires the governing body of a political subdivision, other than a county, that orders an election to deliver notice of the election to the county clerk of each county in which the political subdivision is located not later than the 60th day before election day.

SECTION 1.06. Amends Section 11.001, Election Code, as follows:

> 11.001. ELIGIBILITY TO VOTE. (a) Creates subsection from existing text.
>
> > (b) Requires a person who resides on property located in more than one territory described by Subsection (a)(2) to choose in which territory the residence of the person is located.

SECTION 1.07. Amends Section 16.0921(c), Election Code, to make a nonsubstantive change.

SECTION 1.08. Amends Section 19.002(d), effective January 1, 2006, to modify the statutes with which a registrar is required to comply.

SECTION 1.09. Amends Section 31.0021(a), Election Code, by deleting text relating to a designation of a campaign treasurer.

SECTION 1.10. Amends Section 31.092, Election Code, by adding Subsection (d), to prohibit the county election officer, in a contract authorized by Subsection (b), from preventing the county chair or the chair's designee from supervising the conduct of the primary election, including the tabulation of results, as required by Chapter 172 (Primary Elections).

SECTION 1.11. (a) Amends Section 42.006(a), Election Code, to require, except as otherwise provided by this section, a county election precinct to contain at least 100 but not more than 5,000, rather than 2,000, registered voters.

> (b) Repealer: Section 42.006(d) (relating to the maximum number of registered voters a precinct may contain), Election Code.

SECTION 1.12. Amends Section 51.005(c), Election Code, to require the secretary of state to prescribe procedures for determining the number of provisional ballots, rather than ballot stubs, to be provided.

SECTION 1.13. Amends Subchapter B, Chapter 65, Election Code, by adding Section 65.060, as follows:

> Sec. 65.060. DISCLOSURE OF SOCIAL SECURITY, DRIVER'S LICENSE, OR PERSONAL IDENTIFICATION NUMBER ON PROVISIONAL BALLOT AFFIDAVIT. Provides that a social security number, Texas driver's license number, or number of a personal identification card issued by the Department of Public Safety furnished on a provisional ballot affidavit is confidential and does not constitute public information for purposes of Chapter 552 (Public Information), Government Code. Requires the general custodian of election records to ensure that a social security number, Texas driver's license number, or number of a personal identification card issued by the Department of Public Safety is excluded from disclosure.

SECTION 1.14. Amends Section 67.004, Election Code, by adding Subsection (b-1), to require the tabulation in Subsection (b) to also include for each precinct the total number of voters who cast a ballot for a candidate or for or against a measure in the election. Requires the secretary of state to prescribe any procedures necessary to implement this subsection.

SECTION 1.15. Amends Sections 67.017(a), (b), and (c), Election Code, as follows:

> (a) Requires the presiding officer of the canvassing authority to prepare a report of the precinct results as contained in the election registrar for any other election.

> (b) Requires the county clerk or presiding officer to deliver the report to the secretary of state not later than the 30th day after election day in an electronic format prescribed by the secretary of state.

> (c) Makes conforming changes.

SECTION 1.16. (a) Amends Sections 68.051(a) and (b), Election Code, as follows:

> > (a) Requires the lieutenant governor, speaker of the house of representatives, and secretary of state, not later than January, rather than February, 1 of each even-numbered, rather than odd-numbered, year, to appoint six persons to serve on an elections advisory committee in connection with the tabulation and reporting of election results under this chapter.

> > (b) Makes conforming changes.

SECTION 1.17. Amends Section 85.005, Election Code, by adding Subsection (d), to require early voting by personal appearance at the main early voting polling place, in an election ordered by a city, to be conducted for at least 12 hours on one weekday, if the early voting period consists of less than six weekdays or on two weekdays, if the early voting period consists of six or more weekdays.

SECTION 1.18. Amends Section 86.007(f), Election Code, to make a nonsubstantive change.

SECTION 1.19. Amends Section 87.041(e), Election Code, to make nonsubstantive changes.

SECTION 1.20. Amends Section 87.042(c), Election Code, to require, rather than authorize, the ballot envelope to be place in a separate container if the ballots are to be counted at a central counting station or the procedure for counting the early voting votes cast by personal appearance is different from that for count the votes cast by mail. Makes nonsubstantive changes.

SECTION 1.21. Amends Section 101.004, Election Code, by amending Subsections (i) and (k), and adding Subsection (l), as follows:

    (i) Makes a conforming change.

    (k) Makes a nonsubstantive change.

    (l) Provides that, for purposes of determining the end of the period that an application may be submitted under Subsection (f)(1), an application is considered to be submitted at the time it is received by the early voting clerk.

SECTION 1.22. Amends Section 146.0301(a), Election Code, to prohibit a write-in candidate from withdrawing from the election after the 57th, rather than 46th, day before an election day.

SECTION 1.23. Amends Section 146.083, Election Code, to require a declaration of write-in candidacy to be filed not later than 5 p.m. on the date, rather than on the fifth day after the date, an application for a place on the ballot is required to be filed.

SECTION 1.24. Amends Section 272.009(b), Election Code, to require the authority appointing election judges for an election, rather than the authority holding the election, to make certain provisions for accommodating Spanish-speaking voters.

SECTION 1.25. (a) Amends Section 277.002(a), Election Code, to make nonsubstantive changes.

    (b) Makes application of the change in law made by this section prospective.

ARTICLE 2. REPEAL OF OBSOLETE PROVISIONS REGARDING THE USE OF MECHANICAL VOTING MACHINES AND PUNCH-CARD BALLOTS

SECTION 2.01. Amends Section 85.034(a), Election Code, by deleting obsolete language relating to mechanical voting machines.

SECTION 2.02. Amends Section 104.001, Election Code, to make a conforming change.

SECTION 2.03. Amends Section 111.005(c), Election Code, by deleting obsolete language relating to punch-card ballots.

SECTION 2.04. Amends Section 121.003, Election Code, to make conforming and nonsubstantive changes.

SECTION 2.05. Amends Section 122.033, Election Code, to make conforming changes.

SECTION 2.06. Amends Section 123.033(e), Election Code, to make conforming and nonsubstantive changes.

SECTION 2.07. Amends Section 124.001, Election Code, to make a conforming change.

SECTION 2.08. Amends Section 124.002, Election Code, to make conforming changes.

SECTION 2.09. Amends Sections 124.003(a), (c), and (d), Election Code, to make conforming changes.

SECTION 2.10. Amends Section 124.063, Election Code, to make conforming changes.

SECTION 2.11. Amends Section 125.001, Election Code, to make a conforming change.

SECTION 2.12. Amends Section 125.007, Election Code, to make conforming changes.

SECTION 2.13. Amends Section 125.061(a), Election Code, to make conforming changes.

SECTION 2.14. Amends Section 127.1301, Election Code, as follows:

> Sec. 127.1301. New heading: TALLYING, TABULATING, AND REPORTING CENTRALLY COUNTED OPTICAL SCAN BALLOT UNDERVOTES AND OVERVOTES. Makes a conforming change.

SECTION 2.15. Amends Section 212.112(a), Election Code, to make conforming changes.

SECTION 2.16. Amends Section 214.002(b), Election Code, to make conforming and nonsubstantive changes.

SECTION 2.17. Amends Section 221.008, Election Code, to make a conforming change.

SECTION 2.18. Amends Section 272.005(b), Election Code, to make a conforming change.

SECTION 2.19. Amends Section 272.006(a), Election Code, to make conforming changes.

SECTION 2.20. Amends Section 272.007(c), Election Code, to make a conforming change.

SECTION 2.21. Repealer: (1) Sections 123.001(d) (relating to punch-card ballots), 123.0331 (Acquisition of Punch-Card Ballot Equipment Generally Prohibited), 124.061 (Form of Punch-Card Ballot Label), 125.061(c) (relating to punch-card ballots), and 127.130(d) and (e) (relating to punch-card ballots);

> (2) Subchapter E (Processing Mechanical Voting Machine Results), Chapter 87;

> (3) Subchapter B (Mechanical Voting Machine Ballot), Chapter 124;

> (4) Subchapter B (Mechanical Voting Machines), Chapter 125;

> (5) Chapter 126 (Processing Mechanical Voting Machine Results);

> (6) Subchapter G (Preservation of Punch-Card Voting Aids), Chapter 127; and

> (7) Subchapter B (Votes Cast on a Mechanical Voting Machine), Chapter 214, Election Code.

ARTICLE 3. EFFECTIVE DATE

SECTION 3.01. (a) Effective date: September 1, 2005, except as otherwise provided by this Act.

> (b) Provides that Article 2 of this Act takes effect January 1, 2006.

> (c) Makes application of this Act prospective.

SUMMARY OF COMMITTEE CHANGES

COMMITTEE AMENDMENT NO. 1:

Amend H.B. 2309 by inserting the following appropriately number sections of the bill and by renumbering subsequent sections of the bill accordingly:

SECTION ___. Amends Section 41.001(a), Election Code, as amended by Section 1, Chapter 1, Acts of the 78th Legislature, 3rd Called Session, 2003, as follows:

(a) Sets forth modified schedule for holding each general or special election in this state, except as otherwise provided by this subchapter.

SECTION ___. Amends Section 67.003, Election Code, as follows:

(a) Creates this subsection from existing text. Makes a conforming change.

(b) Requires the local canvass, for an election held on the uniform election date in May, to occur not later than the 11th day after election day and not earlier than the later of certain dates.

SECTION ___. Amends Section 85.001, Election Code, by adding Subsection (e), to provides that, for an election held on the uniform election date in May, the period for early voting by personal appearance begins on the 12th day before election day and continues through the fourth day before election day.