BILL ANALYSIS

Senate Research Center   S.B. 392
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AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

The separation of judicial offices from other political offices on ballots will encourage voters to become better informed about their judicial candidates. The Texas Code of Judicial Conduct requires judges to be impartial, independent, fair, and faithful to the law. The Code also specifically states that, "A judge shall not be swayed by partisan interests, public clamor, or fear of criticism." By creating a separation between candidates for political offices and judicial offices, voters may be less influenced by partisan issues and focus more on qualifications for judicial offices, such as education and experience.

As proposed, S.B. 392 eliminates the option of a straight-party vote for a judicial candidate., and requires a separate ballot for judicial candidates.

RULEMAKING AUTHORITY

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

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 52.071(b), Election Code, as follows:

(b) Requires that the following instruction be added to the instruction required by Section 52.070(b) (relating to certain text required to be on a voting square): "You may cast a straight-party vote (that is, cast a vote for all the nominees of one party other than nominees for a judicial office) by placing an 'X' in the square beside the name of the party of your choice. If you cast a straight-party vote for all the nominees of one party and also cast a vote for an opponent of one of that party's nominees, your vote for the opponent will be counted as well as your vote for all the other nominees of the party other than nominees for a judicial office for which the straight-party vote was cast. A straight-party vote will not be counted for the nominee of a party for a judicial office."

SECTION 2. Amends Sections 52.092(a), (c), (d), (e), (f), and (j), Election Code, as follows:

(a) Sets forth the order in which the offices that are required to be listed for an election at which offices regularly filled at the general election for state and county officers are to appear on the ballot, including judicial offices.

(c) Deletes existing text requiring the following statewide offices of the state government to be listed in the following order: chief justice, supreme court; justice, supreme court; presiding judge, court of criminal appeals; and judge, court of criminal appeals.

(d) Deletes existing text requiring the following district offices of the state government to be listed in the following order: chief justice, court of appeals; justice, court of appeals; district judge; criminal district judge; and family district judge. Makes nonsubstantive changes.

(e) Deletes existing text requiring the following county offices to be listed in the following order: judge, county court at law; judge, county criminal court; and judge, county probate court. Makes nonsubstantive changes.

(f) Deletes existing text requiring justice of the peace to be on the list for precinct offices in a certain order. Makes nonsubstantive changes.

(j) Provides that the office of judge of a multicounty statutory county court created under Subchapter D (Multicounty Statutory County Courts), Chapter 25 (Statutory County Courts), Government Code, is considered to be a judicial, rather than county, office for purposes of listing the office on the ballot and to be a district office for all other purposes under this code.

SECTION 3. Amends Subchapter D, Chapter 52, Election Code, by adding Section 52.0921, as follows:

Sec. 52.0921. JUDICIAL OFFICES. (a) Requires that the judicial offices regularly filled at the general election for state and county officers appear on a separate ballot from the offices listed in Section 52.092.

(b) Provides that, notwithstanding any other provision of this code, a straight-party vote does not count in an election for an office that appears on the judicial ballot under this section. Provides that candidates for office on the judicial ballot appear with their party affiliation or independent status displayed next to the candidate's name in a format prescribed by the secretary of state (SOS).

(c) Requires SOS to prescribe procedures to inform voters that a straight-party vote does not count in an election for an office that appears on the judicial ballot. Requires that the procedures include signs posted in the polling place and notice on the ballot or through the voting system on which a vote is cast.

(d) Sets forth that judicial offices be listed in the following order: chief justice, supreme court; justice, supreme court; presiding judge, court of criminal appeals; judge, court of criminal appeals; chief justice, court of appeals; justice, court of appeals; district judge; criminal district judge; family district judge; judge, county court at law; judge, county criminal court; judge, county probate court; and justice of the peace.

SECTION 4. Amends Sections 65.007(b) and (c), Election Code, as follows:

(b) Requires that the total number of straight-party votes tallied for each party be added to the total votes received for each of the party nominees individually, subject to Section 52.0921.

(c) Requires that, if a ballot indicates a straight-party vote and a vote for an opponent of one or more of that party's nominees, a vote be counted for the opponent and for each of the party's other nominees, subject to Section 52.0921, whether or not any of those nominees have received individual votes.

SECTION 5. Effective date: September 1, 2009.