BILL ANALYSIS

Senate Research Center   C.S.S.B. 506
                            By: West
                        State Affairs
                        5/8/2017
              Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

S.B. 506 addresses issues related to voting system equipment used by counties participating in the countywide polling place program.

Under current law, a county participating in a countywide polling place program is limited to only using a direct recording electronic (DRE) voting system that does not produce a voter verifiable paper trail. S.B. 506 will allow a county to utilize a voting system that is capable of printing all available ballot styles of that polling place and not limit the county to only using a DRE voting system.

S.B. 506 creates and defines new language for "precinct ballot counter," "election management system," and "central accumulator" in Chapter 121, Election Code.

S.B. 506 creates a new Subchapter E, Chapter 122, Election Code, related to applications for certification procedures and a new Subchapter I, Chapter 127, Election Code, related to precinct ballot counters.

S.B. 506 updates election procedures and codifies rules currently used by the Texas secretary of state to help ensure ballot security.

Texas counties will have the opportunity to implement new voting systems that make use of enhanced technologies under S.B. 506. Additionally, it provides the opportunity for more types of voting system equipment to be certified to be used in Texas which will provide more choices for Texas counties. (Original Author's / Sponsor's Statement of Intent)

C.S.S.B. 506 amends current law relating to certain voting systems.

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 Sections 43.007(c) and (d), Election Code, as follows:

  (c) Requires the Texas secretary of state (SOS), in conducting the countywide polling place program (program), to provide for an audit of the voting system units used, rather than direct recording electronic (DRE) voting units, including any type of voting system unit described by Subsection (d)(4), before and after the election, and during the election to the extent such an audit is practicable.

  (d) Requires SOS to select to participate in the program each county that:

    (1) through (3) makes no changes to these subdivisions;

    (4) uses either DRE voting machines or a voting system capable of printing all available ballot styles of that polling place; and

(5) makes no changes to this subdivision.

SECTION 2. Amends Section 121.003, Election Code, by adding Subdivisions (13) and (14) to define "precinct ballot counter" and "central accumulator."

SECTION 3. Amends Section 122.001, Election Code, by adding Subsection (f), to prohibit a voting system that uses a central accumulator from being used in an election unless the central accumulator creates in real time an audit log including a date and time stamp of each significant election event as determined by the SOS.

SECTION 4. Amends Chapter 125, Election Code, by adding Subchapter D, as follows:

SUBCHAPTER D. VOTING SYSTEM USING PRECINCT BALLOT COUNTER

Sec. 125.101. VOTING SYSTEM USING PRECINCT BALLOT COUNTER. (a) Requires a voting system that uses a precinct ballot counter to comply with the requirements of this subchapter in addition to other applicable procedures prescribed by this code.

(b) Provides that, to the extent not in conflict with this subchapter, a provision of this code applicable to an electronic voting system is applicable to a voting system that uses a precinct ballot counter.

Sec. 125.102. PRECINCT BALLOT COUNTER USED DURING EARLY VOTING BY PERSONAL APPEARANCE. (a) Provides that this section applies only to voting during the period for early voting by personal appearance.

(b) Requires that a precinct ballot counter be properly secured to prevent tampering or the unauthorized deposit of ballots.

(c) Requires the early voting clerk or deputy early voting clerk to inspect a precinct ballot counter before voting begins on each day to ensure that the precinct ballot counter is properly locked with two locks, each with a different key, is properly sealed to detect an unauthorized opening of the box, and registers that no votes have been cast on that day.

(d) Requires the presiding judge, at the conclusion of voting on each day, to:

(1) print a report from the precinct ballot counter showing the number of ballots cast on that day; and

(2) ensure that the precinct ballot counter is properly locked, sealed, and powered off to prevent tampering or the unauthorized deposit of ballots.

(e) Requires an election officer, if a precinct ballot counter is not able to print the report described by Subsection (d)(1), to complete a daily ballot count manually and generate a report. Requires that a report described by this subsection be signed by at least two election officers each time an entry is made and is authorized to be signed by any poll watchers present.

(f) Requires SOS to prescribe the form of the report described by Subsection (d)(1).

(g) Prohibits the early voting clerk or deputy early voting clerk from printing a results tape from a precinct ballot counter.

Sec. 125.103. PROCEDURES BEFORE VOTING BEGINS ON ELECTION DAY. Requires the presiding election judge to inspect a precinct ballot counter before voting

begins on election day to ensure that the precinct ballot counter is properly locked and sealed and registers that no votes have been cast.

Sec. 125.104. ACCEPTING BALLOT. (a) Requires that a precinct ballot counter be designed to accept or reject a voter's ballot according to programmed instructions. Requires that the programmed instructions reject and return to a voter a ballot that is blank or overvoted.

(b) Authorizes a voter whose ballot is rejected by a precinct ballot counter to:

(1) attempt to correct the ballot;

(2) return the ballot to an election officer as a spoiled ballot and request a replacement ballot, except as provided by Subsection (c); or

(3) request that an election officer override the rejection and instruct the precinct ballot counter to accept the ballot as voted.

(c) Prohibits a voter from being given a replacement ballot under Subsection (b)(2) if the voter has already been provided with two replacement ballots under that subsection for the election. Requires a voter who has reached the limit for replacement ballots to follow the procedure provided by Subsection (b)(3).

SECTION 5. Amends Chapter 127, Election Code, by adding Subchapter I, as follows:

SUBCHAPTER I. PROCESSING RESULTS OF VOTING SYSTEM USING PRECINCT BALLOT COUNTER

Sec. 127.251. PRECINCT BALLOT COUNTER. (a) Provides that this subchapter applies to the processing of election results in a voting system using a precinct ballot counter.

(b) Requires the SOS to prescribe any necessary procedures, in addition to those prescribed by this subchapter, for processing the election results.

Sec. 127.252. PROCEDURES AFTER VOTING COMPLETED. (a) Requires the prescribing judge, after the last voter has voted on election day, to secure a precinct ballot counter to ensure that no additional votes can be cast.

(b) Requires the presiding judge, if the votes cast on a precinct ballot counter are not to be counted at a central counting station, to print three copies of the tape containing the ballot tabulation from the precinct ballot counter for purposes of checking for a certain discrepancy. Requires that the official tabulation, if a certain discrepancy is found, be conducted in the manner provided by Section 127.157 (Processing Irregularly Marked Ballots).

Sec. 127.253. PROCESSING RESULTS AT CENTRAL COUNTING STATION. Requires that the procedures established for counting votes under Subchapters C (Sealed Ballot Boxes) and E (Processing Results at Central Counting Station), if votes cast on a precinct ballot counter are to be counted at a central counting station, be followed.

Sec. 127.254. EARLY VOTING BALLOTS COUNTED BY EARLY VOTING BALLOT BOARD. (a) Requires the presiding judge of the early voting ballot board, at the time tabulation is to begin, to inspect the precinct ballot counter to determine whether the seals are intact and that they match the serial numbers listed on the ballot and seal certificate. Requires that the ballots, if the seals are not intact, be counted with another tabulation device.

(b) Requires the presiding judge, if the seals are intact, to print a report from the precinct ballot counter to verify that no unauthorized ballots have been cast since the conclusion of early voting by personal appearance.

(c) Requires the presiding judge, if the report printed under Subsection (b) shows that no unauthorized ballots were cast on the precinct ballot counter, to print three copies of the tape containing the ballot tabulation from the precinct ballot counter for purposes of checking for a discrepancy under Section 127.156 (Tabulation at Central Counting Station if Discrepancy Exists in Ballot Totals).

(d) Requires the presiding judge, if no discrepancy under Section 127.156 requires the official tabulation of ballots to be conducted at a central counting station as provided by Section 127.157, to use the printed results tapes, and any tally sheets used for the manual counting of write-in votes, to prepare the early voting precinct returns.

Sec. 127.255. EARLY VOTING BALLOTS COUNTED AT CENTRAL COUNTING STATION. Requires that the procedures established for counting votes under Subchapters C and E be followed if early voting ballots cast on a precinct ballot counter are to be counted at a central counting station.

Sec. 127.256. COUNTING OF EARLY VOTING BALLOTS VOTED BY MAIL. (a) Authorizes a precinct ballot counter to be used to count early voting ballots voted by mail.

(b) Authorizes a precinct ballot counter used during early voting by personal appearance to be used to count early ballots cast voted by mail if:

(1) all appropriate documentation, including rosters and voting history, are maintained separately for early ballots cast by mail and by personal appearance;

(2) the authority counting the ballots prints a report from the precinct ballot counter showing that no unauthorized ballots were cast on the precinct ballot counter after the close of early voting by personal appearance; and

(3) the authority counting the ballots removes all ballots cast during early voting by personal appearance from the precinct ballot counter and places them in a secured container.

(c) Requires the presiding judge of the authority counting the ballots to place the early voting ballots voted by mail in the precinct ballot counter to be scanned and counted.

(d) Requires that the early voting ballots voted by mail, on completion of the scanning, be removed from the precinct ballot counter and placed in a secured container. Authorizes the container to be the same as the container described by Subsection (b)(3), but provides that early voting ballots voted by personal appearance are required to be maintained separately from the early voting ballots voted by mail.

(e) Requires the presiding judge of the authority counting the ballots to print two copies of the tape containing the ballot tabulation from the precinct ballot counter to verify that the total number of ballots scanned is equal to the sum of the total number of ballots scanned from early voting by personal appearance and the total number of ballots scanned from early voting by mail on the precinct ballot counter.

(f) Requires that any deviation from the procedure described by this section be approved by the SOS.

SECTION 6. Amends Section 127.067, Election Code, by adding Subsection (d), to provide that an audit log produced by a central accumulator is considered part of the election records.

SECTION 7. Amends Subchapter E, Chapter 127, Election Code, by adding Section 127.1302, as follows:

Sec. 17.1302. PREPARING AUDIT LOG. (a) Authorizes a poll watcher to request a printed copy of an audit log produced by a central accumulator before any votes are tabulated, after early voting results are tabulated, and immediately following the completion of the vote tabulation.

(b) Requires the manager of a central counting station, after the automatic counting of ballots for each precinct is completed, to print a copy of the entire audit log to retain with other election records.

SECTION 8. Amends Section 129.054, Election Code, as follows:

Sec. 129.054. NETWORK CONNECTIONS AND WIRELESS TECHNOLOGY. (a) Prohibits a voting system, including any voting system used in the countywide polling place program, from being connected to any external communications network, including the Internet.

(b) Prohibits a voting system, including any voting system used in the countywide polling place program, from having the capability of permitting wireless communication unless the system uses line-of-sight infrared technology that shields the transmitter and receiver from external infrared transmissions and the system can only accept transmissions generated by the system.

SECTION 9. Effective date: upon passage or September 1, 2017.