

BILL ANALYSIS

Senate Research Center
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C.S.H.B. 2640
By: Cortez (Hughes)
State Affairs
5/18/2019
Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

C.S.H.B. 2640 amends current law relating to political parties.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the secretary of state in SECTION 20 (Section 172.090, Election Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Sections 67.017(a) and (b), Election Code, as follows:

(a) Requires the county clerk, after each election for a statewide office or the office of United States representative, state senator, or state representative, a district office, a county office, or a precinct office, to prepare a report of the number of votes, including early voting votes cast by mail and early voting votes cast by personal appearance, received in each county election precinct for each candidate for each of those offices. Deletes existing text relating to a report prepared by the presiding officer of the canvassing authority in other elections.

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

SECTION 2. Amends Section 161.008(b), Election Code, as follows:

(b) Authorizes SOS to deliver the certification by notifying the authority that the candidates posted on the secretary of state's Internet website are the candidates certified. Requires SOS, in addition to the other methods of delivering the certification under this section, to deliver a copy of the certification to the authority by e-mail.

SECTION 3. Amends Section 162.003, Election Code, to provide that a person becomes affiliated with a political party when the person returns an early voting or limited primary ballot by mail, rather than applies for and is provided an early voting or limited primary ballot to be voted by mail.

SECTION 4. Amends Section 162.004, Election Code, by adding Subsection (a-1) and amending Subsections (b) and (c), as follows:

(a-1) Requires an election officer to stamp a voter registration certificate with a party affiliation under Subsection (b) or provide an affiliation certificate under Subsection (c) unless, not later than the 90th day before the date of the primary election, the county chair notifies the county clerk that the chair does not require a stamped voter registration certificate or affiliation certificate for verification of attendance at a precinct convention.

(b) Requires an election officer at a primary election polling place, subject to Subsection (a-1), to stamp the party's name in the party affiliation space of the registration certificate of each voter who presents the voter's registration certificate and is accepted to vote

unless the party name has already been stamped in the space. Makes a nonsubstantive change.

(c) Makes a conforming change to this subsection.

SECTION 5. Amends Section 162.005, Election Code, to make conforming and nonsubstantive changes.

SECTION 6. Amends Sections 162.008(b) and (c), Election Code, as follows:

(b) Sets forth specified language for an oath of affiliation, rather than providing that the oath is prescribed by Section 162.007(b) (relating to a required oath of affiliation taken at a precinct convention).

(c) Authorizes the committee member or authorized person, after administering the oath, to stamp the party's name in the party affiliation space unless the party name has already been stamped in the space. Authorizes the committee member or authorized person on the person's request, if the person does not present a registration certificate, to issue the person an affiliation certificate. Deletes existing text requiring the committee member or authorized person to stamp the party's name on the person's registration certificate or issue the person an affiliation certificate as provided by Section 162.007(c) (relating to certifying affiliation on a person's registration certificate).

SECTION 7. Amends Section 171.002, Election Code, as follows:

Sec. 171.002. COMMITTEE COMPOSITION. (a) Provides that the state executive committee consists of two members from each state senatorial district or congressional district, as determined by party rule.

(b) Provides that, in addition to the members representing the senatorial or congressional districts, the committee has a chair and a vice chair, one of whom must be a man and the other a woman.

(c) and (d) Makes conforming changes to these subsections.

SECTION 8. Amends Section 171.003(c), Election Code, to make a conforming change.

SECTION 9. Amends Section 171.004(a), Election Code, to make a conforming change.

SECTION 10. Amends Section 171.0231, Election Code, as follows:

Sec. 171.0231. WRITE-IN CANDIDATE FOR COUNTY CHAIR OR PRECINCT CHAIR. (a) Provides that write-in candidates are not permitted for county chair or precinct chair unless a state executive committee authorizes write-in candidates.

(b) Provides that if the county executive committee authorizes write-in candidates:

(1)–(6) Redesignates existing Subsections (a) through (g) as Subdivisions (1)–(6) and makes conforming and nonsubstantive changes throughout.

SECTION 11. Amends Section 171.024, Election Code, by amending Subsection (e) and adding Subsections (f) and (g), as follows:

(e) Requires the county chair, after a vacancy is filled, to submit the replacement member's name to SOS for posting on the SOS Internet website, rather than requiring the county chair, after a vacancy is filled, to promptly deliver written or electronic notice of the replacement member's name and address to the state chair and to the county clerk.

(f) Requires SOS to create a system for the county chair to submit the information to SOS for posting on the SOS Internet website under Subsection (e).

(g) Authorizes the state executive committee by rule to require a specific deadline for filling vacancies on a county executive committee before that committee fills a vacancy in nomination for public office, but prohibits the state executive committee from setting the deadline for a date later than the date that the vacancy in nomination for public office occurred. Provides that the deadline does not apply to the filling of a vacancy if the executive committee contains no members.

SECTION 12. Amends Section 171.051, Election Code, as follows:

Sec. 171.051. DISTRICT EXECUTIVE COMMITTEE ESTABLISHED. (a) Creates this subsection from existing text and makes no further changes.

(b) Authorizes the state executive committee to by rule require a specific deadline for filling vacancies on a district executive committee before that committee fills a vacancy in nomination for public office, but prohibits the state executive committee from setting the deadline for a date later than the date that the vacancy in nomination for public office occurred. Provides that the deadline does not apply to the filling of a vacancy if the executive committee contains no members.

SECTION 13. Amends Section 171.053(a), Election Code, to provide that the district executive committee for a district comprising only a part of a single county consists of the members of the county executive committee who reside in the district, rather than consisting of the precinct chairs of the county election precincts in the district.

SECTION 14. Amends Section 171.071, Election Code, as follows:

Sec. 171.071. PRECINCT EXECUTIVE COMMITTEE ESTABLISHED. (a) Creates this subsection from existing text and makes no further changes.

(b) Authorizes the state executive committee to by rule require a specific deadline for filling vacancies on a precinct executive committee before that committee fills a vacancy in nomination for public office, but prohibits the state executive committee from setting the deadline for a date later than the date that the vacancy in nomination for public office occurred. Provides that the deadline does not apply to the filling of a vacancy if the executive committee contains no members.

SECTION 15. Amends Section 171.072(a), Election Code, to provide that the precinct executive committee for a commissioners precinct or for a justice precinct containing three or more county election precincts consists of the members of the county executive committee who reside in the commissioners or justice precinct, as applicable, rather than the consisting of the precinct chair of each county election precinct in the commissioners or justice precinct, as applicable.

SECTION 16. Amends Subchapter B, Chapter 172, Election Code, by adding Sections 172.0222 and 172.0223, as follows:

Sec. 172.0222. REVIEW OF APPLICATION; NOTICE TO CANDIDATE. (a) Provides that, if the application of this section conflicts with the application of Section 141.032 (Review of Application; Notice to Candidate), this section prevails.

(b) Requires the authority with whom the application is filed, on the filing of an application for a place on the general primary election ballot, to review the application to determine whether it complies with the requirements as to form, content, and procedure that it must satisfy for the candidate's name to be placed on the general primary election ballot.

(c) Requires the review, except as provided by Subsection (d) or (e), to be completed not later than the fifth business day after the date the application is received by the authority.

(d) Requires the review, if an application is submitted fewer than five business days before the regular filing deadline, to be completed not later than the first Friday after the regular filing deadline.

(e) Provides that, if an application is accompanied by a petition, the petition is considered part of the application, and the review is required to be completed as soon as practicable after the date the application is received by the authority. Provides that the petition is not considered part of the application for purposes of determining compliance with the requirements applicable to each document, and a deficiency in the requirements for one document is prohibited from being remedied by the contents of the other document. Provides that, unless the petition is challenged, the authority is only required to review the petition for facial compliance with the applicable requirements as to form, content, and procedure.

(f) Provides that a determination under this section that an application complies with the applicable requirements does not preclude a subsequent determination that the application does not comply, subject to Section 172.0223.

(g) Requires the authority, if an application does not comply with the applicable requirements, to reject the application and immediately deliver to the candidate written notice of the reason for the rejection.

(h) Provides that this section does not apply to a determination of a candidate's eligibility.

(i) Provides that after the filing deadline:

(1) a candidate is prohibited from amending an application filed under Section 172.021 (Application Required); and

(2) the authority with whom the application is filed is prohibited from accepting an amendment to an application filed under Section 172.021.

Sec. 172.0223. LIMITATION ON CHALLENGE OF APPLICATION. (a) Provides that, if the application of this section conflicts with the application of Section 141.034 (Limitation on Challenge of Application), this section prevails.

(b) Prohibits an application for a place on the general primary election ballot from being challenged for compliance with the applicable requirements as to form, content, and procedure after the 50th day before the date of the election for which the application is made.

(c) Provides that this section does not apply to a determination of a candidate's eligibility.

(d) Requires a challenge to state with specificity how the application does not comply with the applicable requirements as to form, content, and procedure. Provides that the authority's review of the challenge is limited to the specific items challenged and any response filed with the authority by the challenged candidate.

SECTION 17. Amends Section 172.055(c), Election Code, as follows:

(c) Requires the authority, not later than 24 hours after the candidate withdraws or is declared ineligible or after the authority preparing the notice learns of the candidate's death, as applicable, to:

(1) creates this subdivision from existing text, redesignates existing Subdivisions (1)–(3) as Subsections (A) through (C), and makes nonsubstantive changes throughout.

(2) post the notice on the authority's Internet website, if one is maintained; and

(3) send a copy of the notice to:

(A) SOS, to be posted on the SOS Internet website, for a candidate for an office filled by voters of more than one county; or

(B) the county clerk, to be posted on the county's Internet website, for an office filled by voters of a single county.

SECTION 18. Amends Section 172.082, Election Code, by amending Subsections (b) and (f) and adding Subsection (g), as follows:

(b) Requires the county chair or the county chair's designee to conduct the drawing unless the county executive committee provides by resolution that the drawing be conducted by the primary committee.

(f) Makes conforming and nonsubstantive changes to this subsection.

(g) Requires a designee appointed by the county chair to conduct the drawing under this section (Order of Names on General Primary Ballot: Regular Drawing) to be:

(1) a member of the county executive committee; or

(2) if no member of the county executive committee is available to conduct the drawing, a resident of the county served by the committee who is affiliated with the same political party.

SECTION 19. Amends Section 172.088(g), Election Code, to require the state executive committee to prescribe the wording of the ballot language for the proposition submitted by the petition, rather than the wording of the proposition submitting a proposal.

SECTION 20. Amends Section 172.090, Election Code, by amending Subsection (a) and adding Subsections (d) and (e), as follows:

(a) Deletes existing text relating to elections with consolidated precincts.

(d) Authorizes the county chair or the county clerk to produce and number ballots by hand under this section.

(e) Requires SOS to adopt rules for conducting a hand count of ballots under this section.

SECTION 21. Amends Sections 172.1111(a) and (c), Election Code, as follows:

(a) Requires the presiding judge, before the opening of the polls during the early voting period and on election day, to post certain information at certain locations.

(c) Makes a conforming change to this subsection.

SECTION 22. Amends Section 172.1112(a), Election Code, to replace references to party with references to county in regards to a required Internet website posting of a notice of a primary election and notice of consolidated precincts.

SECTION 23. Amends Section 172.1114(e), Election Code, as follows:

(e) Requires a county chair of a political party to supply or contract with the authority to supply a notice prepared according to this section to the authority conducting the election not later than the 30th day before the date early voting by personal appearance begins. Provides that the authority's preparation of copies is a necessary expense incurred in connection with a primary election under Section 173.001 (State Funds For Primary Authorized).

SECTION 24. Amends Section 172.113(e), Election Code, as follows:

(e) Requires the authority, on completing the tabulation, to deliver it to the general custodian or post the tabulation on the county's website and, if required by SOS rule, the SOS website, rather than providing that the authority, on completing the tabulation, is required to deliver it to the general custodian or is authorized to post the tabulation on the county's website or the SOS website. Makes nonsubstantive changes throughout.

SECTION 25. Amends Section 172.1141, Election Code, as follows:

Sec. 172.1141. LIST OF REGISTERED VOTERS FOR CONVENTION. (a) Requires a county clerk to prepare a list under this section unless, not later than the 90th day before the date of the primary, the county chair notifies the county clerk that the chair does not require a list.

(b) Authorizes the state chair or county chair to request and requires the county clerk to provide not later than the date of the local general primary canvass an electronic document listing the persons who voted in the party primary, if a county records the acceptance of a voter electronically, the unique identifier assigned to each person, and whether the person voted early in person or by mail, or voted in person on election day.

SECTION 26. Amends Section 172.115(c), Election Code, to require the presiding judge to retain and provide at the appropriate time the list of registered voters to be used in the party's conventions if the list was produced under Section 172.1141.

SECTION 27. Amends Section 172.116, Election Code, by amending Subsections (a), (b), and (c) and adding Subsection (h), as follows:

(a) Adds the county chair's designee to a list of persons required to canvass the precinct election returns for the county.

(b) Makes a conforming change to this subsection.

(c) Requires the county clerk to prepare and electronically submit to SOS a report of the results of the canvass, which is required to include certain information.

(h) Requires a designee appointed by the county chair to conduct the local canvass under this section to be:

(1) a member of the county executive committee; or

(2) if no member of the county executive committee is available to conduct the canvass, a resident of the county served by the committee who is affiliated with the same political party.

SECTION 28. Amends Sections 172.117(a-1) and (a-2), Election Code, as follows:

(a-1) Requires the notations describing each candidate to include "accepted" and "rejected," among certain other notations. Creates Subdivision (4) from existing text. Redesignates Subdivisions (3)–(8) as Subdivisions (5)–(10).

(a-2) Requires the county chair to update the notations after each general primary and runoff primary election, unless SOS's Internet website automatically updates the notations based on election returns.

SECTION 29. Amends Section 172.121(b), Election Code, as follows:

(b) Requires SOS to update the status of each candidate as appropriate, rather than requiring the state chair to deliver the certification, by posting next to the candidate's name on the SOS website whether the person lost in the primary or is in a runoff for the position as soon as practicable after the state canvass of the general primary election is completed.

SECTION 30. Amends Section 172.122, Election Code, by amending Subsection (b) and adding Subsection (c), as follows:

(b) Requires the state chair, not later than the 20th day after the date the state canvass is completed, to submit, rather than to deliver, the certification to SOS for posting on SOS's Internet website.

(c) Requires SOS to create a system for the state chair to submit the information to SOS for posting on SOS's Internet website under Subsection (b).

SECTION 31. Amends Section 172.124(a), Election Code, to require the county clerk, for each primary election, to prepare a report of the number of votes, including early voting votes, received in each county election precinct by each candidate for an office, other than a party office, rather than to prepare a report of the number of votes, including early voting votes, received in each county election precinct by each candidate for an a statewide office, or the office of United States representative, state senator, or state representative, as provided by Section 67.017 (Reporting Precinct Results to Secretary of State) for the report of precinct results for a general election.

SECTION 32. Amends Section 172.130(a), Election Code, as follows:

(a) Authorizes the state chair, or the state chair's designee, notwithstanding a conflicting provision of this code, to perform any administrative duty of the county chair, county chair's designee, or county executive committee related to the conduct of a primary election that has not been performed in the time required by law, including the submission of candidate information under Section 172.029 (Submission and Compilation of Information Pertaining to Candidates), drawing for ballot order under Section 172.082, rather than Sections 172.082 and 172.084 (Order of Names on Runoff Primary Ballot), and canvassing returns under Section 172.116 (Local Canvass Relating to Candidates Who Filed an Application For a Place on the Ballot in Accordance with the General Requirements).

SECTION 33. Amends Section 173.032(c), Election Code, to authorize the state chair to, with the consent of SOS and the county chair or county executive committee, if one exists for the county, accept money into the state primary fund on behalf of a county party.

SECTION 34. Amends Subchapter B, Chapter 173, Election Code, by adding Section 173.0341, as follows:

Sec. 173.0341. STATE CHAIR AS FISCAL AGENT FOR COUNTY PARTY. (a) Authorizes a state chair, or the designee of a state chair, to enter into an agreement with a county chair under which the state chair will act as a fiscal agent for the county party.

(b) Requires SOS to prescribe the form of an agreement under this section.

(c) Provides that, if the state chair acts as the fiscal agent for a county party in accordance with an agreement under this section:

(1) the state chair is required to deliver the completed agreement to SOS;

(2) any filing fee received by the county party under Subchapter C (Disposition of Filing Fees) is required to be made payable to the state party for deposit in the state primary fund not later than five days after receipt of the filing fee;

(3) the county chair or county executive committee is required to make a request in accordance with Section 31.093 to enter into a contract with the county elections administrator to conduct primary elections in the county; and

(4) Section 173.031 does not apply to the county party.

SECTION 35. Amends Section 173.061, Election Code, as follows:

Sec. 173.061. FEE PAID TO COUNTY CHAIR. Requires the county chair, except as provided by Section 173.0341(c)(2), to deposit in the county primary fund each filing fee accompanying an application for a place on the ballot filed with the county chair.

SECTION 36. Amends Section 174.021(b), Election Code, to authorize a political party by rule to allow a county to hold precinct conventions before or during, rather than before, the county convention on the same day and at the same place as the county convention.

SECTION 37. Amends Section 174.025(c), Election Code, to authorize the state executive committee by rule to adopt an alternate process in place of the requirement under this subsection.

SECTION 38. Amends Sections 174.064(c) and (d), Election Code, to make conforming changes.

SECTION 39. Amends Section 191.003, Election Code, as follows:

Sec. 191.003. NOTICE OF CANDIDATES TO SECRETARY OF STATE. (a) Creates this subsection from existing text. Requires the state chair of each political party holding a presidential primary election to submit the information to SOS for posting on SOS's Internet website and certify the name of each presidential candidate who qualifies for a place on the presidential primary election ballot in the same manner as a candidate filing for statewide, district, and county offices not later than the ninth day after the date of the regular filing deadline for the general primary election, rather than requiring the state chair of each political party holding a presidential primary election to certify the name of each presidential candidate who qualifies for a place on the presidential primary election ballot and deliver the certification to SOS not later than the ninth day after the date of the regular filing deadline for the general primary election.

(b) Requires SOS to create a system for submitting the information to SOS for posting on SOS's Internet website under Subsection (a).

SECTION 40. Amends Section 191.004(b), Election Code, as follows:

(b) Requires the names of the presidential candidates to be printed as the first race on the ballot under a certain heading, followed by certain instructions. Makes changes to specified ballot instructions.

SECTION 41. Amends Section 191.008(d), Election Code, to require the rules adopted under this section or the rules already in existence, for a political party to be entitled to have its nominees for president and vice-president of the United States placed on the general election ballot in an election year in which the party is holding a presidential primary election, to be posted on the party's Internet website and filed with SOS not later than January 5 of the presidential election year.

SECTION 42. Repealer: Section 171.054(g) (relating to authorizing the state executive committee by rule to require a specified deadline for filling certain vacancies), Election Code.

Repealer: Section 174.023(b) (relating to requiring the county chair to deliver to the county clerk a certain written notice), Election Code.

Repealer: Section 174.064(b) (relating to requiring a certain written notice during senatorial district conventions to be delivered to the county clerk), Election Code.

SECTION 43. Effective date: September 1, 2019.