

## **BILL ANALYSIS**

Senate Research Center

C.S.H.B. 330  
By: Danburg (Shapiro)  
State Affairs  
5-17-97  
Committee Report (Substituted)

### **DIGEST**

Currently, a person who goes to the polls without a voter registration card and whose name does not appear on the voter rolls, can cast a ballot by signing an affidavit that states the person is entitled to take part in the election. After the election, the sworn affidavits go to the county's voter registrar, who checks to see if the voters were really qualified. There is no election law that allows for a separate ballot box for the affidavit ballot. This bill would create a separate ballot box for the sworn affidavits stubs collected at an election and provides penalties for election fraud.

### **PURPOSE**

As proposed, C.S.H.B. 330 sets forth certain procedures for affidavits signed by voters at an election and provides criminal penalties.

### **RULEMAKING AUTHORITY**

Rulemaking authority is granted to the secretary of state in SECTIONS 1, 20, and 23 (Sec. 51.005(c) and Sec. 124.006, Election Code) of this bill.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Section 51.005, Election Code, by adding Subsection (c), to require the secretary of state to prescribe procedures for determining the number of ballot stubs to be provided.

SECTION 2. Amends Chapter 52C, Election Code, by adding Section 52.074, as follows:

Sec. 52.074. BALLOT STUB FOR CERTAIN VOTERS. Requires the authority responsible for having the official ballot prepared to have a detached ballot stub prepared as provided by this section for use by certain voters. Requires the ballot to be in a form approved by the secretary of state and to include certain information.

SECTION 3. Amends Section 61.005, Election Code, as follows:

Sec. 61.005. New heading: SECURITY OF BALLOTS, BALLOT BOXES, STUBS, AND ENVELOPES. Requires the presiding judge to take the precautions necessary to prevent access to the ballot stubs and stub envelopes in a manner not authorized by law. Makes conforming changes.

SECTION 4. Amends Section 62.006, Election Code, as follows:

Sec. 62.006. New heading: PLACING BOX AND ENVELOPE FOR DEPOSIT OF MARKED BALLOTS AND STUBS. Requires the ballot box and envelope no. 5 to be placed where they will be in plain view of the election officers, watchers, and persons waiting to vote.

SECTION 5. Amends Chapter 62, Election Code, by adding Section 62.0081, as follows:

Sec. 62.0081. PRESIDING JUDGE TO PREPARE BALLOT STUBS. Sets forth certain duties for a presiding judge regarding the use and preparation of ballot stubs.

SECTION 6. Amends Section 62.009, Election Code, by adding Subsection (c), to require the ballots with stubs to be placed separately from the regular ballots.

SECTION 7. Amends Section 63.008, Election Code, to require a voter to be accepted for voting if the voter presents proof of identification in a form described by Section 63.0101 or an affidavit is also signed by a person who is working at the polling place and who attests to the identity of the voter. Prohibits the voter from being accepted for voting if the requirements prescribed by Subsection (a) are not met and an election officer shall indicate beside the voter's name on the list of the registered voters that the voter was rejected under this section. Makes inclusive language changes.

SECTION 8. Amends Section 63.009, Election Code, to provide that the affidavits required by Sections 63.007 and 63.008 are substituted for the affidavit required by Section 63.010 in complying with that section if an election officer can determine from the voter registrar that the person is a registered voter of the county.

SECTION 9. Amends Sections 63.010(d) and (e), Election Code, to require the presiding judge to request the voter to present proof of identification in a form described by Section 63.0101 and to execute an affidavit that state the facts to support the voter's eligibility to vote. Requires the presiding judge to determine the voter's identity in a certain manner. Requires an election officer to indicate on the affidavit or if none, a written statement containing certain information, and, if applicable, on the list of registered voters beside the voter's name, that the voter was rejected under this section. Makes conforming and nonsubstantive changes.

SECTION 10. Amends Chapter 63, Election Code, by adding Section 63.0101, as follows:

Sec. 63.0101. DOCUMENTATION OF PROOF OF IDENTIFICATION. Sets forth provisions regarding the acceptable documentation to be used as proof of identification under this chapter.

SECTION 11. Amends Section 64.001, Election Code, as follows:

Sec. 64.001. New heading: VOTER TO SELECT AND PREPARE BALLOT; DEPOSIT OF STUB. Requires a voter who executes an affidavit in accordance with Section 63.010 to select a ballot with a stub and perform certain other functions before going to a voting station. Requires the election officer to deposit the ballot stub enclosed in its envelope in envelope no. 5. Makes a conforming change.

SECTION 12. Amends Section 65.005, Election Code, by adding Subsection (d), to require a ballot stub with a signed stub to be enclosed and sealed in an envelope and deposited in envelope no. 5 before the ballot is examined if the stub is found.

SECTION 13. Amends Section 65.010(a), Election Code, to prohibit a ballot with an unsigned stub from being counted.

SECTION 14. Amends Section 66.003, Election Code, to require five envelopes to be furnished to each polling place for use in assembling and distributing the precinct election records. Requires envelope no. 5 to be labeled and addressed in a certain manner.

SECTION 15. Amends Section 66.021(b), Election Code, to make a conforming change.

SECTION 16. Amends Chapter 66B, Election Code, by adding Section 66.0242, as follows:

Sec. 66.0242. CONTENTS OF ENVELOPE NO. 5. Requires envelope no. 5 to contain the ballot stubs.

SECTION 17. Amends Section 66.051(b), Election Code, to make a conforming change.

SECTION 18. Amends Section 66.058, Election Code, by amending Subsections (b)-(d) and

adding Subsection (h), to require the ballot stubs to be destroyed after expiration of the prescribed preservation period, subject to an extension of the period under Section 1.013, Provides that the ballot stubs are confidential information and are not subject to public inspection before they are destroyed. Makes conforming and nonsubstantive changes.

SECTION 19. Amends Section 66.059, Election Code, to make conforming changes.

SECTION 20. Amends Chapter 124A, Election Code, by adding Section 124.006, as follows:

Sec. 124.006. IMPLEMENTATION OF BALLOT STUB SYSTEM. Requires the secretary of state to prescribe the form of a ballot stub and ballot for use with a stub and the necessary procedures to implement the ballot stub system prescribed by Section 52.074 for use with each voting system used in this state.

SECTION 21. Amends Section 221.008, Election Code, to make conforming changes.

SECTION 22. Amends Sections 273.041, 273.042, and 273.043, Election Code, to make conforming and nonsubstantive changes.

SECTION 23. Requires the secretary of state, by rule, to prescribe any procedures necessary to implement this Act.

SECTION 24. Effective date: September 1, 1997.

SECTION 25. Emergency clause.

### **SUMMARY OF COMMITTEE CHANGES**

Adds new SECTIONS 7 and 8 and rennumbers subsequent sections accordingly.

#### **SECTION 7.**

Amends Section 63.008, Election Code, to provide that a voter who does not present a voter registration certificate, but presents proof of identification in a form described by Section 63.0101 or an affidavit signed by certain persons, to be allowed to vote. Prohibits the voter from being accepted for voting in certain situations and requires election officers to indicate beside the voter's name on the list of registered voters that the voter was rejected. Makes inclusive language changes.

#### **SECTION 8.**

Amends Section 63.009, Election Code, to provide that the affidavits required by Sections 63.007 and 63.008 are substituted for the affidavit required by Section 63.010 in complying with that section. Makes conforming and nonsubstantive changes.

#### **SECTION 9.**

Amends Sections 63.010(d) and (e), Election Code, to require the presiding judge to request the voter to present proof of identification that states the facts necessary to support the voter's eligibility to vote. Makes a conforming change.

Adds new SECTION 10 and rennumbers existing sections accordingly.

Amends Chapter 63, Election Code, to set forth provisions regarding certain documentation which is considered to be acceptable as proof of identification under this chapter.