

## **BILL ANALYSIS**

Senate Research Center  
79R7695 DRH-F

S.B. 1672  
By: Ellis  
State Affairs  
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As Filed

### **AUTHOR'S/SPONSOR'S STATEMENT OF INTENT**

As proposed, S.B. 1672 requires the certification process for e-voting machines to be open to the public. Further, it requires an open process for the selection and certification of e-voting systems that counties would use in place of traditional punch card voting. S.B. 1672 creates a panel of computer engineers, election administrators from the Office of the Secretary of State, at least one attorney experienced in election law and procedure, information security experts, and design and usability experts to examine the systems before they are certified. S.B. 1672 allows testimony from the public as well as persons of knowledgeable experience. Currently, the e-voting certification and selection process is closed to the public.

### **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 122.035, Election Code, by amending Subsections (a) and (b), and adding Subsection (e), as follows:

- (a) Requires the secretary of state, on submission of an application for approval of a voting system or voting system equipment, to appoint five, rather than four, persons as examiners, one of whom is required to be a full-time employee of the secretary. Requires the attorney general to appoint three, rather than two, persons as examiners, of whom one is required to be a member of the public, another to be a full-time employee of the general, and one person who is an attorney with at least five years of experience in election law and procedure.
- (b) Requires the secretary of state's appointees, rather than two of the secretary's appointees, to include specific persons. Deletes existing text relating to appointees with experience in mechanics, electronics, and election law.
- (e) Requires a person, before being appointed as an examiner, to submit to the secretary of state a summary containing descriptions of the person's work history and education, any publications by or certification or training received by the person, and any relevant experience of the person with election equipment or election law.

SECTION 2. Amends Section 122.036(a), Election Code, to require the examiners to examine the voting system or voting system equipment for which an application has been submitted at the time and in the manner directed by the secretary of state, except that the examination is required to occur at an open meeting subject to Chapter 551 (Open Meetings), Government Code, and an audio-visual recording of the examination is required to be created and made available to the public.

SECTION 3. Amends Section 122.038, Election Code, by amending Subsection (c) and adding Subsection (d), as follows:

- (c) Requires the secretary, if the system or equipment satisfies the applicable requirements for approval, by written order to grant preliminary approval of, rather than

approve, the system or equipment of that design for use in elections. Requires the secretary to deny the application if it does not satisfy the applicable requirements.

(d) Authorizes the secretary of state to finalize approval of a system or equipment only if the secretary follows the process for final adoption of a rule contained in Sections 2001.023 (Notice of Proposed Rule), 2001.029 (Public Comment), 2001.030 (Statements of Reasons For or Against Adoption), 2001.031 (Informal Conferences and Advisory Committees), 2001.033 (State Agency Order Adopting Rule), and 2001.034 (Emergency Rulemaking), Government Code. Provides that Section 2001.035 (Substantial Compliance Requirement; Time Limit on Procedural Challenge), Government Code, applies to a final approval with respect to compliance with the sections of Subchapter B (Rulemaking), Chapter 2001, Government Code, listed in this subsection.

SECTION 4. Amends Section 122.067, Election Code, to make conforming changes.

SECTION 5. Amends Section 122.070, Election Code, by amending Subsection (c) and adding Subsection (d), to make conforming changes.

SECTION 6. Amends Section 122.092, Election Code, to make conforming changes.

SECTION 7. Amends Section 122.093(a), Election Code, to make conforming changes.

SECTION 8. Effective date: January 1, 2006.