

BILL ANALYSIS

Senate Research Center

S.B. 1073
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State Affairs
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Enrolled

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Under current law, a candidate for public office in this state must provide the candidate's residence address on the candidate's application for a place on the ballot. The address, together with other information provided by the candidate, is posted on a publicly viewable website maintained by the Secretary of State. The publication of a candidate's home address raises significant privacy concerns.

This legislation would require a candidate to provide the candidate's campaign mailing address on the ballot application so that the candidate's residence address is not posted on the Secretary of State's publicly viewable website.

S.B. 1073 amends current law relating to the requirements for a candidate's application or nomination for a place on the ballot and related procedures.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the secretary of state of the State of Texas in SECTION 8 (Section 172.117, Election Code) and SECTION 12 (Section 172.122, Election Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 141.031(a), Election Code, by requiring a candidate's application for a place on the ballot that is required by this code to include a public mailing address and any available electronic mail address at which the candidate receives correspondence relating to the candidate's campaign.

SECTION 2. Amends Section 172.021, Election Code, by adding Subsections (b-1) and (b-2), as follows:

(b-1) Requires the authority receiving an application, except as provided by Subsection (b-2), to return it to the applicant as incomplete if the applicant submits payment of a fee that is returned for insufficient funds. Requires the applicant to resubmit the application before the end of the filing period, but prohibits payment of the filing fee from being made in the form of a check from the same account as that of the payment previously returned for insufficient funds.

(b-2) Provides that, if a payment of a filing fee is returned for insufficient funds after the end of the filing period, the application is not considered to be timely filed, and requires the authority receiving the application to inform the applicant that the application was not valid.

SECTION 3. Amends Subchapter B, Chapter 172, Election Code, by adding Section 172.0221, as follows:

Sec. 172.0221. NOTICE TO CANDIDATE REGARDING POSTING OF CERTAIN INFORMATION. Requires the authority with whom an application is filed to inform the candidate that the candidate's public mailing address and, if provided on the application,

the candidate's electronic mail address will be posted by secretary of state of the State of Texas (SOS) on the secretary's publicly viewable website.

SECTION 4. Amends Section 172.028(a), Election Code, by requiring SOS to post on the secretary's Internet website that is viewable by the public the certified list, the public mailing address for each certified candidate and, if provided by the candidate, the electronic mail address at which the candidate receives correspondence relating to the candidate's campaign.

SECTION 5. Amends the heading to Section 172.116, Election Code, to read as follows:

Sec. 172.116. LOCAL CANVASS RELATING TO CANDIDATES WHO FILED AN APPLICATION FOR A PLACE ON THE BALLOT IN ACCORDANCE WITH THE GENERAL REQUIREMENTS.

SECTION 6. Amends Sections 172.116(a), (b), and (g), Election Code, as follows:

(a) Requires the county chair and, if available, at least one member of the county executive committee selected by the county executive committee to canvass the precinct election returns for the county.

(b) Requires the county chair and any selected county executive committee member to convene to conduct the local canvass, rather than to convene to conduct the local canvass at the county seat, on the second Thursday after election day at the hour specified by the county chair and posted on the county party website or the commissioners court bulletin board if the county organization of the political party does not maintain a website.

(g) Provides that the official result of the primary election, except for offices canvassed at the state level, is determined from the local canvass of precinct returns and shall be posted to the SOS website.

SECTION 7. Amends the heading to Section 172.117, Election Code, to read as follows:

Sec. 172.117. CERTIFICATION OF NOMINEES WHO FILED AN APPLICATION FOR A PLACE ON THE BALLOT IN ACCORDANCE WITH THE GENERAL REQUIREMENTS FOR COUNTY AND PRECINCT OFFICES FOR PLACEMENT ON GENERAL ELECTION BALLOT.

SECTION 8. Amends Section 172.117, Election Code, by amending Subsection (a) and adding Subsections (a-1), (a-2), and (a-3), as follows:

(a) Requires the county chair to certify by posting on the SOS website a notation next to the name and address of each primary candidate who is nominated for a county or precinct office for placement on the general election ballot, rather than requires the county chair to certify in writing for placement on the general election ballot the name and address of each primary candidate who is nominated for a county or precinct office. Requires the chair to execute and file with the county clerk an affidavit certifying that the returns posted on the SOS website are the correct and complete returns. Requires SOS to adopt by rule a process to allow the chair to submit the affidavit digitally.

(a-1) Requires SOS to develop appropriate notations to describe the status of each candidate. Requires that the notations include:

- (1) "filed";
- (2) "withdrew";
- (3) "lost primary";
- (4) "in runoff";

- (5) "lost runoff";
- (6) "deceased"; or
- (7) "nominee for general election."

(a-2) Requires the county chair to update the notations after each general primary and runoff primary election. Requires the chair, after any withdrawal or death of a candidate, and subsequent replacement of the candidate on the ballot, to update the notation on the website. Requires that all notations be completed and accurate on the date prescribed by SOS by rule to ensure that an authority printing general election ballots may rely on the information.

(a-3) Requires the authority preparing the official general election ballot, after the notations have been placed on the website and the affidavit has been filed as required by Subsection (a), to use the list of candidates named on the SOS website as the nominees for general election in preparing the general election ballot.

SECTION 9. Amends the heading to Section 172.120, Election Code, to read as follows:

Sec. 172.120. STATE CANVASS RELATING TO CANDIDATES WHO FILED AN APPLICATION FOR A PLACE ON THE BALLOT IN ACCORDANCE WITH THE GENERAL REQUIREMENTS.

SECTION 10. Amends Sections 172.120(a), (b), (b-1), (f), and (h), Election Code, as follows:

(a) Requires the state chair, rather than executive committee, to canvass the county election returns.

(b) Requires the state chair, rather than executive committee, to conduct, rather than convene to conduct, the state canvass for the general primary election not later than:

- (1) and (2) Makes no change to these subdivisions.

(b-1) Requires the state chair, not later than the third Saturday after runoff primary election day, to complete the state canvass of the runoff primary election. Deletes existing text requiring the executive committee, not later than the third Saturday after runoff primary election day, to convene at the call of the state chair to conduct the state canvass of the runoff primary election.

(f) Requires SOS to preserve and archive on the secretary's website all of the information pertaining to candidates and the canvass results. Deletes existing text requiring the state chair, not later than the 20th day after the date the state canvass is completed, to deliver the committee's tabulation to SOS, who shall preserve it for the period for preserving the precinct election records.

(h) Changes a reference to the state executive committee to the state chair.

SECTION 11. Amends the heading to Section 172.122, Election Code, to read as follows:

Sec. 172.122. CERTIFICATION OF NOMINEES WHO FILED AN APPLICATION FOR A PLACE ON THE BALLOT IN ACCORDANCE WITH THE GENERAL REQUIREMENTS FOR STATEWIDE AND DISTRICT OFFICES TO SECRETARY OF STATE.

SECTION 12. Amends Section 172.122(a), Election Code, as follows:

(a) Requires the state chair to certify by posting on SOS's website the name and address of each primary candidate who is nominated for a statewide or district office, rather than requires the state chair to certify in writing as the party's nominee the name and address

of each primary candidate who is nominated for a statewide or district office. Requires the state chair to execute and file with SOS an affidavit certifying that the returns posted on SOS's website are the correct and complete returns. Authorizes SOS to adopt by rule a process to allow the chair to submit the affidavit digitally.

SECTION 13. Amends the heading to Section 172.124, Election Code, to read as follows:

Sec. 172.124. REPORTING PRECINCT RESULTS TO SECRETARY OF STATE RELATING TO CANDIDATES WHO FILED AN APPLICATION FOR A PLACE ON THE BALLOT IN ACCORDANCE WITH THE GENERAL REQUIREMENTS.

SECTION 14. Amends Section 172.124(a), Election Code, to change a reference to the county chair to the county clerk.

SECTION 15. Repealers: Sections 172.021(e) (requiring a candidate for a certain office in a county with a certain population who chooses to pay the filing fee to also accompany the application with a petition for a place on the primary ballot as a candidate for judicial office that meets certain requirements set forth) and (g) (requiring a candidate or the office of chief justice or justice, supreme court, or presiding judge or judge, court of criminal appeals, who chooses to pay the filing fee to also accompany the application with a petition that meets certain requirements set forth), Election Code.

Repealers: Sections 172.116(c) (providing that the procedure for conducting the canvass is the same as that prescribed by this code for a local canvass of a general election), (d) (providing that the tabulation of results must be a separate document), and (e) (requiring the county chair to deliver the committee's tabulation to the general custodian of election records, who shall preserve it for the period for preserving the precinct election records), Election Code.

Repealer: Section 172.117(b) (requiring the county chair to deliver the certification to the authority responsible for having the official general election ballot prepared), Election Code.

Repealers: Sections 172.120(c) (requiring the state executive committee by written resolution to determine the place for conducting the state canvass), (d) (providing that the procedure for conducting the canvass is the same as that prescribed by this code for a canvass by the governor), and (e) (providing that a separate tabulation of results for the offices of governor and lieutenant governor is not made), Election Code.

SECTION 16. Requires SOS, as soon as practicable, but not later than December 31, 2016, to complete the modifications to the SOS website as necessary to enable compliance with the changes in law made by this Act. Provides that this section expires January 1, 2017.

SECTION 17. Effective date: September 1, 2015.