

## **BILL ANALYSIS**

C.S.H.B. 6  
By: Cain  
Elections  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

Full, free, and fair elections are the very foundations of a stable constitutional democracy. Concerns are ongoing regarding the potential for election fraud to threaten the stability of democracy in Texas and to undermine public confidence in the legitimacy of elections across the state. Reforms and clarity are needed in a variety of state election laws to preserve the integrity of the electoral process and to strengthen the safeguards surrounding the electoral process in Texas.

C.S.H.B. 6 seeks to prevent fraud in the conduct of elections in Texas by enacting the Election Integrity Protection Act of 2021 in recognition of the legislature's authority under Section 4, Article VI, of the Texas Constitution, to make all laws necessary to detect and punish fraud and preserve the purity of the ballot box.

### **CRIMINAL JUSTICE IMPACT**

It is the committee's opinion that this bill expressly does one or more of the following: creates a criminal offense, increases the punishment for an existing criminal offense or category of offenses, or changes the eligibility of a person for community supervision, parole, or mandatory supervision.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

### **ANALYSIS**

C.S.H.B. 6 amends the Election Code to revise the conduct of elections in Texas with regard to election officers and observers, voter assistance, and election fraud and other unlawful practices and to provide for the prioritization of certain election-related proceedings in the Texas Supreme Court, the courts of appeals, and the trial courts. The bill requires a public official to construe the provisions of the Election Code strictly to effect the intent of the legislature that the application of those provisions and the conduct of elections be uniform and consistent throughout Texas to reduce the likelihood of fraud in the conduct of elections.

C.S.H.B. 6 sets out certain legislative findings and defines "public official" for purposes of the Election Code to mean any person elected, selected, appointed, employed, or otherwise designated as an officer, employee, or agent of the state, a government agency, a political subdivision, or any other public body established by state law.

### **Decedents' Voter Registrations**

C.S.H.B. 6, with respect to the filing deadlines for the following requisite abstracts filed with the applicable voter registrar and the secretary of state for purposes of canceling a voter registration, changes those deadlines to require the local registrar of deaths and the court clerk, as applicable, to file the respective abstracts as soon as possible but not later than the seventh

day after the abstract is prepared instead of filing the abstract not later than the 10th day of the month following the month in which the abstract is prepared:

- the abstract prepared by the local registrar of deaths for each death certificate issued; and
- the abstract prepared by the clerk of each court having probate jurisdiction for each small estate affidavit and for each application for probate of a will, administration of a decedent's estate, or determination of heirship.

### **Spoiled Ballot Register**

C.S.H.B. 6 requires an election officer to maintain at the polling place a register of spoiled ballots from a direct recording electronic voting unit.

### **Watchers and Their Purpose, Entitlements, Observations, and Duties**

C.S.H.B. 6 establishes that the purpose of provisions governing appointed watchers is to preserve the integrity of the ballot box in accordance with the Texas Constitution by providing for the appointment of watchers to observe the conduct of an election and call to the attention of an election officer any observed or suspected irregularity or violation of law in the conduct of the election.

C.S.H.B. 6 clarifies that being entitled to observe an election activity or procedure means that the watcher is entitled to sit or stand near enough to see and hear the activity or procedure.

C.S.H.B. 6 authorizes a watcher serving at a polling place in an election to observe the sealing and transfer of a memory card, flash drive, hard drive, data storage device, or other medium now existing or later developed used by voting system equipment.

C.S.H.B. 6 entitles a poll watcher to observe the in-person delivery of a marked ballot to be voted early by mail. The poll watcher must be able to determine how the ballots are being delivered and how election officials are making decisions about the delivery of ballots, if applicable. The bill prohibits the poll watcher from disrupting the process of delivering ballots.

### **Exceptions to the Exclusion of Bystanders From Certain Locations**

C.S.H.B. 6 provides additional exceptions to the prohibition against bystanders, during certain periods, being in a polling place or in the meeting place of an early voting ballot board and also imposes a prohibition, with prescribed exceptions, against bystanders being in the central counting station during certain periods. Accordingly, the bill specifies and clarifies that, under the Election Code, the following persons may be lawfully present in those applicable locations during the respective periods:

- in a polling place from the time the presiding judge arrives there on election day to make the preliminary arrangements until the precinct returns have been certified and the election records have been assembled for distribution following the election:
  - an election judge or clerk;
  - a watcher;
  - the secretary of state;
  - a staff member of the Elections Division of the Office of the Secretary of State performing an official duty in accordance with the Election Code;
  - an election official, a sheriff, or a staff member of an election official or sheriff delivering election supplies;
  - a state inspector;
  - a person admitted to vote;
  - a child under 18 years of age who is accompanying a parent who has been admitted to vote;
  - a person providing assistance to a voter as an interpreter or on a voter's request for assistance in marking the ballot;
  - a person accompanying a voter who has a disability;

- a special peace officer appointed by the presiding judge;
- the county chair of a political party conducting a primary election, as authorized by state law;
- a voting system technician, as authorized by state law;
- the applicable county election officer, as necessary to perform tasks related to the administration of the election; and
- a person whose presence has been authorized by the presiding judge and alternate presiding judge in accordance with the Election Code;
- in the meeting place of an early voting ballot board during the time of the board's operations:
  - a presiding judge or member of the board;
  - a watcher;
  - a voting system technician, as authorized by state law;
  - the applicable county election officer, as necessary to perform tasks related to the administration of the election; and
  - a person whose presence has been authorized by the presiding judge in accordance with the Election Code; and
- in a central counting station while ballots are being counted:
  - a counting station manager, tabulation supervisor, assistant to the tabulation supervisor, presiding judge, or clerk;
  - a watcher;
  - a voting system technician, as authorized by state law;
  - the applicable county election officer, as necessary to perform tasks related to the administration of the election; and
  - a person whose presence has been authorized by the presiding judge of the central counting station in accordance with the Election Code.

### **Removal of Watcher From Polling Place**

C.S.H.B. 6 prohibits a presiding judge from requiring an appointed watcher to leave a polling place and from having an appointed watcher removed from a polling place. However, a presiding judge may remove a watcher from a polling place only if the watcher engages in activity that would constitute an offense related to the conduct of the election, including the following conduct, as specified by the bill, that constitutes certain Election Code offenses unamended by the bill, the offense of election fraud as amended by the bill, and the offenses added to the Election Code by the bill:

- with respect to the Election Code offenses unamended by the bill, conduct involving:
  - retaliating against a voter;
  - unlawfully removing or attempting to remove voted ballots from a ballot box;
  - unlawfully prohibiting an employee from voting;
  - unlawfully buying, offering to buy, selling, or offering to sell balloting materials; or
  - engaging in organized election fraud activity by committing or conspiring to commit one or more Election Code offenses under certain specified titles of the code with the intent to establish, maintain, or participate in a vote harvesting organization;
- with respect to the offense of election fraud as amended by the bill, engaging in conduct whereby the person knowingly or intentionally makes any effort to do the following:
  - influence the independent exercise of the vote of another in the presence of the ballot or during the voting process, including by altering the ballot of another or by otherwise causing a ballot to not reflect the intent of the voter;
  - cause a voter to become registered, a ballot to be obtained, or a vote to be cast under false pretenses;
  - count invalid votes or alter a report to include invalid votes;
  - fail to count valid votes or alter a report to exclude valid votes; or
  - cause any intentionally misleading statement, representation, or information to be provided to an election official or on an application for ballot by mail, carrier envelope, or any other official election-related form or document; and
- with respect to the Election Code offenses as added by the bill, conduct involving:

- paid vote harvesting;
- the unlawful solicitation and distribution of an application to vote by mail;
- the unlawful distribution of early voting ballots and balloting materials by an election official;
- perjury in connection with certain election procedures; and
- the unlawful altering of election procedures by a public official.

### **Offenses Regarding Watchers**

C.S.H.B. 6 modifies the conduct constituting the offense for unlawfully obstructing a watcher as follows:

- to include knowingly preventing a watcher from observing a procedure the watcher is entitled to observe; and
- to expressly include knowingly preventing such observation of an activity or procedure by taking any action to obstruct the view of a watcher or distance the watcher from the activity or procedure to be observed in a manner that would make observation not reasonably effective.

C.S.H.B. 6 creates a Class B misdemeanor offense for an election officer who intentionally or knowingly refuses to accept for service a watcher when all requirements for acceptance are met.

### **Assistance to a Voter**

C.S.H.B. 6 includes in the oath required of a person selected to provide assistance to a voter a statement swearing or affirming that the person did not pressure, encourage, coerce, or intimidate the voter into choosing the person to provide assistance. The bill includes a specification in the oath language that the person is swearing or affirming the oath under penalty of perjury.

C.S.H.B. 6 requires a person other than an election officer who lawfully assists a voter to complete a form stating the following:

- the name and address of the person assisting the voter;
- the manner in which the person is assisting the voter;
- the reason the assistance is necessary; and
- the relationship of the assistant to the voter.

The bill requires the secretary of state to prescribe the form and sets out additional requirements for the form as follows:

- the form must be incorporated into the official carrier envelope if the voter is voting an early voting ballot by mail and receives assistance; or
- the form must be submitted to an election officer at the time the voter casts a ballot if the voter is voting at a polling place or, if the voter is unable to enter the polling place, is voting at the polling place entrance or curb.

With regard to the offense of unlawfully assisting a voter voting a ballot by mail, C.S.H.B. 6 requires a person who lawfully assists a voter in preparing a ballot to be voted by mail, in addition to the statutorily required entry of the person's signature, printed name, and residence address on the official carrier envelope of the voter, to also enter the following information on the envelope:

- the manner of any assistance provided to the voter by the person;
- the relationship of the person providing the assistance to the voter; and
- whether the person received or accepted any form of compensation or other benefit from a candidate, campaign, or political committee in exchange for providing assistance.

With regard to the conduct that, in part, constitutes the offense of unlawfully assisting a voter voting a ballot by mail for failing to enter required information on the official carrier envelope of an early voting ballot by mail, C.S.H.B. 6:

- narrows the exemption from the application of the offense to apply only to a person who assists a voter and is related to the voter within the second degree by affinity or the third degree by consanguinity and to no longer apply to a person who was physically living in the same dwelling as the voter at the time of the offense; and
- enhances the penalty for the offense from a state jail felony to a third degree felony if it is shown on the trial of the offense that the person committed an offense for providing unlawful assistance, under Election Code provisions generally applicable to procedures for assisting voters, to the same voter in connection with the same ballot.

C.S.H.B. 6 requires an official carrier envelope for an early voting ballot to contain spaces on the reverse side of the envelope for indicating the following:

- the manner of any assistance provided by a person assisting the voter; and
- the relationship of that person to the voter.

### **Unlawful Compensation for Assisting Voters**

C.S.H.B. 6 changes the offense for unlawful compensation for assisting voters and the punishment for that offense as follows:

- by removing the following as conduct constituting the offense:
  - compensating another person for assisting voters, as part of any performance-based compensation scheme based on the number of voters assisted or in which another person is presented with a quota of voters to be assisted;
  - engaging in another practice that causes another person's compensation from or employment status with the person to be dependent on the number of voters assisted; and
  - accepting compensation for either of those activities with knowledge that accepting compensation for such activity is illegal;
- by providing that the following conduct instead constitutes the offense:
  - compensating or offering to compensate another person for unlawfully assisting voters; or
  - soliciting, receiving, or accepting compensation for either activity;
- by repealing the misdemeanor punishment for the offense and removing the penalty enhancement for two or more previous convictions of the offense;
- by making the penalty for the revised offense a state jail felony without regard to the number of previous convictions; and
- by including political favors and beneficial or favorable discretionary official acts among the forms of payment considered compensation for purposes of the revised offense.

C.S.H.B. 6 eliminates the misdemeanor punishment for the offense for the unlawful compensation for a carrier envelope action by repealing the provision establishing that punishment and by making the offense instead a state jail felony punishment for a defendant previously convicted two or more times of the offense.

### **Election Fraud and Other Unlawful Practices**

#### Verifying False Information in an Affidavit

C.S.H.B. 6 creates a state jail felony offense for an election judge who knowingly provides a voter with a form for an affidavit to verify the voter's identity for the purpose of being accepted for voting if the form contains false information that was entered on the form by the judge.

#### Paid Vote Harvesting

C.S.H.B. 6 creates the third degree felony offense of paid vote harvesting for a person who does the following:

- directly or through a third party, knowingly provides or offers to provide vote harvesting services in exchange for compensation or other benefit;

- directly or through a third party, knowingly provides or offers to provide compensation or other benefit to a person in exchange for vote harvesting services; or
- knowingly collects or possesses a ballot voted by mail or official carrier envelope from a voter in connection with vote harvesting services.

C.S.H.B. 6 exempts from the application of the offense political speech or other acts merely promoting a candidate or measure that do not involve direct interaction with the following:

- an application for ballot by mail, in the presence of the voter; or
- a voter's official ballot, ballot voted by mail, or carrier envelope.

C.S.H.B. 6 defines "benefit" and "vote harvesting services" for purposes of the offense and specifies the following:

- for purposes of the offense, compensation or other benefit in exchange for vote harvesting services is inferred if a person who performed the vote harvesting services for a candidate or campaign solicits, receives, or is offered compensation from the candidate or campaign, directly or through a third party, for services other than the vote harvesting services provided; and
- if conduct constituting the offense also constitutes another offense, the actor may be prosecuted for either offense or both offenses.

#### Unlawful Solicitation and Distribution of Application to Vote by Mail

C.S.H.B. 6 creates a state jail felony offense for a public official who knowingly, while acting in an official capacity, does the following:

- solicits the submission of an application to vote by mail from a person who did not request an application;
- distributes an application to vote by mail to a person who did not request the application unless the distribution is otherwise expressly authorized by the Election Code or access was provided to an application to vote by mail from a publicly accessible website;
- authorizes or approves the expenditure of public funds to facilitate third-party distribution of an application to vote by mail to a person who did not request the application; or
- completes any portion of an application to vote by mail and distributes the application to an applicant unless the public official engaged in the conduct while lawfully assisting the applicant.

#### Unlawful Distribution of Early Voting Ballots and Balloting Materials

C.S.H.B. 6 creates a state jail felony offense for an early voting clerk or other election official who knowingly mails or otherwise provides an early voting ballot by mail or other early voting by mail ballot materials to a person who did not submit an application for the ballot.

#### Perjury in Connection With Certain Election Procedures

C.S.H.B. 6 creates a state jail felony offense for a person who makes a false statement, or swears to the truth of a false statement previously made, while making the oath required of a person selected to provide assistance to a voter.

#### Unlawful Altering of Election Procedures

C.S.H.B. 6 prohibits a public official from altering, waiving, or suspending an election standard, practice, or procedure mandated by law or rule unless the alteration, waiver, or suspension is expressly authorized by the Election Code.

#### Illegal Voting and Election Fraud

C.S.H.B. 6 expands the conduct constituting illegal voting to include knowingly voting or attempting to vote in an election in Texas after voting in another state in an election in which a federal office appears on the ballot and the election day for both states is the same day. If conduct constituting the offense of illegal voting, as expanded by the bill, also constitutes another offense under any other law, the actor may be prosecuted for either offense or both offenses.

C.S.H.B. 6 does the following with respect to the offense of election fraud:

- revises the constituent conduct of an offense of election fraud involving any knowing or intentional effort to influence the independent exercise of the vote of another in the presence of the ballot or during the voting process to include as such constituent conduct altering the ballot of another or otherwise causing a ballot to not reflect the intent of the voter;
- expands the conduct constituting the offense of election fraud to include knowingly or intentionally making any effort to do the following:
  - count invalid votes or alter a report to include invalid votes; or
  - fail to count valid votes or alter a report to exclude valid votes; and
- increases the penalty for election fraud from a Class A misdemeanor to a state jail felony.

## **Enforcement and Certain Court Proceedings**

### Prioritizing Certain Election Proceedings

C.S.H.B. 6 amends the Government Code to require the Texas Supreme Court, a court of appeals, and a trial court to prioritize over any other proceeding pending or filed in the applicable court a proceeding for injunctive relief that is, as follows:

- pending or filed in the applicable court on or after the 60th day before a general or special election; and
- pending or filed under Election Code provisions governing criminal investigations and other enforcement proceedings based on the alleged conduct, as previously described, that constitutes certain Election Code offenses unamended by the bill, the offense of election fraud as amended by the bill, and the applicable offenses added to the Election Code by the bill.

C.S.H.B. 6 provides the following with respect to such prioritization by the respective courts:

- the supreme court or the court of appeals, whichever has jurisdiction over the proceeding, on the request of any party to the proceeding, must grant the party the opportunity to present an oral argument and must begin hearing the argument as soon as practicable but not later than 24 hours after the time the last brief for the proceeding is due to be filed with the applicable court;
- a trial court on written request of any party to a case randomly assigned under the bill's provisions with respect to the priority assignment of certain election proceedings must hold a hearing on the proceeding that must begin as soon as practicable but not later than 24 hours after the court receives the hearing request;
- oral argument for the supreme court or the court of appeals proceeding may be given in person or through electronic means; and
- the trial court hearing may be held in person or through electronic means.

### Assignment and Docketing of Prioritized Election Proceedings; Related Criminal Offenses

C.S.H.B. 6 sets out provisions, including related criminal offenses, regarding the following:

- the random assignment and subsequent docketing by an applicable trial court clerk of prioritized election proceedings; and
- appellate panels sitting for docketed and assigned prioritized election proceedings.

C.S.H.B. 6, with respect to the trial court provisions and the creation of the related criminal offense, provides the following:

- the clerk of a district court in which such a proceeding is filed and the clerk of a county court or statutory county court in which such a proceeding is filed must, respectively, docket the proceeding and, if more than one applicable court in the county has jurisdiction over the proceeding, randomly assign the proceeding to an applicable court using an automated assignment system; and
- a person, including a public official as defined by reference to the Election Code definition of that term provided by the bill, commits a state jail felony offense if the person communicates with a county or district clerk with the intention of influencing or attempting to influence the court or judge assigned to a proceeding under these bill provisions.

C.S.H.B. 6, with respect to the appellate court provisions and the creation of the related criminal offense, provides the following:

- an appellate court election proceeding entitled to priority under the bill's provisions must be docketed by the clerk of the court and assigned to a panel of three justices determined using an automated assignment system; and
- a person, including a public official as defined by reference to the Election Code definition of that term provided by the bill, commits a state jail felony offense if the person communicates with a court clerk with the intention of influencing or attempting to influence the composition of the three-justice panel assigned a specific proceeding under these bill provisions.

### **Repealed Provisions**

C.S.H.B. 6 repeals the following provisions of the Election Code:

- Section 86.0052(b); and
- Section 86.0105(b).

### **EFFECTIVE DATE**

September 1, 2021.

### **COMPARISON OF ORIGINAL AND SUBSTITUTE**

While C.S.H.B. 6 may differ from the original in minor or nonsubstantive ways, the following summarizes the substantial differences between the introduced and committee substitute versions of the bill.

The substitute changes the original's revised filing deadline for the requisite abstracts to be filed with the applicable voter registrar and the secretary of state for purposes of canceling a voter registration from the first day after the abstract is prepared to the seventh day after the abstract is prepared.

The substitute does not include a provision that is contained in the original requiring an election officer to maintain logs of issued and spoiled ballots, if an electronic voting system uses paper media for recording votes, and subjecting all the logs to public inspection under the general Election Code provisions regarding the public inspection of election records. However, the substitute includes a provision, with respect to the register of spoiled ballots maintained by an election officer, specifying that spoiled ballots from a direct recording electronic voting unit must be included in the spoiled ballot register.

The substitute includes a clarification not contained in the original that being entitled to observe an election activity or procedure means that the watcher is entitled to sit or stand near enough to see and hear the activity or procedure.

The substitute makes the following changes to the original's provision stating that the purpose of provisions governing watchers is to preserve the purity of the ballot box by providing for the



appointment of watchers to observe the conduct of an election and call attention to certain matters:

- the substitute changes the purpose from preserving the purity of the ballot box to preserving the integrity of the ballot box;
- the substitute changes the type of irregularity or violation of law in the conduct of the election that a watcher observes from a potential irregularity or violation to any observed or suspected irregularity or violation; and
- the substitute explicitly requires a watcher, in order to effect that revised purpose, to call to the attention of an election officer any observed or suspected irregularity or violation of law in the conduct of the election.

The substitute changes the activity for which a watcher, according to the original, may be removed from a polling place from activity that would constitute only an election fraud offense, including an offense under Chapter 276, Election Code, to activity that would constitute an offense related to the conduct of the election, including an offense under Chapter 276, Election Code. The substitute includes in that revised provision a specification that the presiding judge may remove the watcher.

The substitute provides the following with respect to the original's expansion of the type of conduct constituting the offense of unlawfully obstructing a watcher:

- the substitute does not include as the expanded conduct knowingly preventing a watcher's observations by having the watcher removed from the polling place or requiring the watcher to leave the polling place unless the watcher engages in activity that would constitute an offense related to election fraud, including an offense under certain other Election Code offenses unamended by the original, the offense of election fraud as amended by the original, and the applicable offenses added to the Election Code by the original;
- the substitute includes the following conduct instead as an expansion of the constituent conduct:
  - knowingly preventing a watcher from observing a procedure the watcher is entitled to observe; and
  - knowingly taking any action to obstruct the view of a watcher or to distance the watcher from the activity or procedure that would make observation not reasonably effective.

The substitute changes the original's provisions specifying and clarifying the persons who may be lawfully present in a polling place, in the meeting place of an early voting ballot board, and in a central counting station as follows:

- for each location, the substitute replaces the county elections administrator performing an official duty with a county election officer performing necessary tasks related to the administration of the election;
- for a polling place, the substitute adds an election official and a sheriff;
- for a meeting place of an early voting ballot board, the substitute does not include a person authorized by the alternate presiding judge; and
- for a central counting station, the substitute replaces a person whose presence has been authorized by the counting station manager with a person whose presence has been authorized by the presiding judge of the central counting station.

With respect to provisions regarding voter assistance, the substitute, as follows:

- does not include a requirement in the original for a person, when submitting the voter assistance form, to present an acceptable form of identification;
- changes the language that is included by the original in the statutorily prescribed voter assistance oath to require the person to swear or affirm that, in addition to not pressuring or intimidating the voter into choosing the person to provide assistance to the voter, the person also did not encourage or coerce the voter to make that choice; and
- includes a specification not included in the original's revised oath that the person swears or affirms the oath under penalty of perjury.

The substitute, with respect to an offense for the unlawful compensation for a carrier envelope action, does not revise the constituent conduct as in the original but instead only repeals the misdemeanor punishment for the first two convictions of the offense.

The substitute, with respect to the original's requirements regarding additional information that must be entered on a carrier envelope by a person assisting a voter, includes as additional information that also must be included an indication of whether the person received or accepted any form of compensation or other benefit from a candidate, campaign, or political committee in exchange for providing assistance.

The substitute, with respect to the original's revisions to the constituent conduct of an offense for unlawful compensation for assisting voters, includes a specification that the discretionary official acts considered compensation for purposes of that offense are such acts that are beneficial or favorable.

The substitute, with respect to the original's revisions to the constituent conduct of an offense of illegal voting, does the following:

- includes a specification not in the original's revision that the election on the same day in which a voter illegally votes or attempts to vote before voting in an election in Texas is an election in which a federal office appears on the ballot; and
- includes a provision not in the original establishing that if conduct constituting the offense also constitutes another offense under any other law, the actor may be prosecuted for either offense or both offenses.

The substitute includes among the original's expanded conduct for an election fraud offense knowingly or intentionally making any effort to influence the independent exercise of the vote of another in the presence of the ballot or during the voting process by altering the ballot of another or by otherwise causing a ballot to not reflect the intent of the voter. The substitute changes the punishment for the offense from a Class A misdemeanor to a state jail felony, whereas the original changed the punishment of the offense to a second degree felony.

The substitute does not include the original's revisions to the offense of engaging in organized election fraud activity that are made by incorporating certain acts regarding vote harvesting services, as defined by both the original and the substitute, into that offense. Instead, the substitute includes provisions establishing each of those acts as separate offenses of knowingly providing paid vote harvesting, with each offense punishable as a third degree felony as established in the original. For purposes of each applicable offense, the original and substitute differ in the definition of "benefit." The substitute defines "benefit" to mean anything reasonably regarded as a gain or advantage, including:

- a promise or offer of employment, a political favor, or a favorable discretionary official act; and
- a benefit to any other person in whose welfare the beneficiary has an interest.

The original defined "benefit" by reference to the Penal Code to mean anything reasonably regarded as pecuniary gain or pecuniary advantage, including benefit to any other person in whose welfare the beneficiary has a direct and substantial interest.

The substitute includes the following, which are not in the original, with respect to an offense of paid vote harvesting:

- an exemption from the application of the offense for certain political speech or acts that do not involve direct interaction with the applicable voting materials; and
- the conditions under which compensation or other benefit in exchange for vote harvesting services is inferred.

The substitute provides the following with respect to the original's added offense for a public official who unlawfully solicits and distributes an application to vote by mail:

- the substitute includes a specification not in the original that the offense is applicable to the conduct of a public official while the official is acting in an official capacity;
- the substitute does not include the requisite intent included in the original that is applicable to the offense committed by a public official who knowingly completes any portion of the application and distributes the application to an applicant; and
- the substitute, regarding conduct involving the official's distribution of an unrequested application, includes a provision not in the original establishing as an exception to the application of that provision that the public official engaged in the conduct constituting the offense by providing access to an application to vote by mail from a publicly accessible website.

The substitute does not include a provision that is contained in the original specifying the requisite intent of the offense for perjury in connection with certain voting procedures. The substitute changes the penalty for the offense from a Class A misdemeanor, as established in the original, to a state jail felony, without regard to the number of times the person makes a false statement in connection with a single election.

The substitute, with respect to the provision contained in the original prohibiting the unlawful altering of election procedures, does not make it a state jail felony offense for a public official, unless expressly authorized by law, to alter or suspend an election standard, practice, or procedure nor, accordingly, does it set out the original's exception to the application of the prohibitions. However, the substitute includes an additional prohibition not in the original regarding the unlawful altering of election procedures to prohibit a public official from waiving a lawful election standard, practice, or procedure without express authorization under the Election Code.

The original and the substitute both include enforcement provisions that provide for the prioritization of certain court proceedings involving applicable election offenses and for the assignment of those proceedings to an applicable court. The provisions of the substitute are substantially similar to those of the original, however, drafting conventions between the versions vary slightly and the chapters of the Government Code in which various provisions are placed differ. The substitute does, however, revise the substance of that article to make certain changes, as follows:

- the substitute does not include the original's Code of Criminal Procedure provisions regarding an attorney pro tem in certain election cases; and
- with respect to criminal offenses established relating to the court proceedings:
  - the substitute makes it an offense in an applicable proceeding before the supreme court or a court of appeals for a person, including a public official, to communicate with a court clerk with the intention of influencing or attempting to influence the composition of the applicable assigned panel, whereas the original made it an offense for that communication to occur in an attempt to influence the assignment of or withhold the assignment of a justice identified by name or political party; and
  - the substitute makes it an offense in an applicable proceeding before a county or district court for a person, including a public official, to communicate with a county or district clerk with the intention of influencing or attempting to influence the court or judge assigned to the proceeding, whereas the original made it an offense for that communication to occur in an attempt to influence the assignment of cases or withhold the assignment of cases to a judge identified by name or political party.

The substitute includes the following provisions that are not included in the original:

- provisions specifically repealing, instead of striking from statute as in the original, the misdemeanor punishments for the first and second convictions of the offense for unlawful compensation for assisting voters and for the offense for the unlawful compensation for a carrier envelope action; and
- a severability provision.