

BILL ANALYSIS

Senate Research Center

S.B. 5
By: Huffman et al.
State Affairs
6/5/2017
Enrolled

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

S.B. 5 addresses concerns raised by a federal appellate court through changes in the Texas Election Code to the procedure by which a voter presents identification to an election clerk. Specifically, S.B. 5 allows for a voter to cast a ballot if the voter has a reasonable impediment to acquiring a form of identification specified in Section 63.0101(a), Election Code.

Additionally, S.B. 5 provides an avenue for the Texas secretary of state (SOS) to provide election identification certificates. This is achieved by codifying a program that SOS has previously enacted to provide election identification certificates across the state. (Original Author's / Sponsor's Statement of Intent)

S.B. 5 amends current law relating to requiring a voter to present proof of identification, provides a criminal penalty, and increases a criminal penalty.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the Texas secretary of state in SECTION 1 (Section 31.013, Election Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Subchapter A, Chapter 31, Election Code, by adding Section 31.013, as follows:

Sec. 31.013. MOBILE LOCATIONS FOR OBTAINING IDENTIFICATION. (a) Requires the Texas secretary of state (SOS) to establish a program using mobile units to provide election identification certificates to voters for the purpose of satisfying the requirements of Section 63.001(b), which is added by this Act. Authorizes a mobile unit to be used at special events or at the request of a constituent group.

(b) Requires SOS, in establishing the program, to consult with the Texas Department of Public Safety (DPS) on the program's creation, security relating to the issuance of an election identification certificate, best practices in issuing an election identification certificate, and equipment required to issue an election identification certificate.

(c) Prohibits SOS from charging a fee to a group that requests a mobile unit established under this section.

(d) Authorizes SOS to deny a request for a mobile unit established under this section if SOS cannot ensure the required security or other necessary elements of the program.

(e) Requires SOS to adopt rules necessary for the implementation of this section.

SECTION 2. Amends Section 63.001, Election Code, by amending Subsections (b), (d), and (e) and adding Subsections (c-1) and (i), as follows:

(b) Requires a voter, except as provided by Subsection (h) (relating to an exception in the identification requirements for a voter who is disabled), on offering to vote, to present to an election officer at the polling place one form of photo identification listed in Section 63.0101(a) or one form of identification listed in Section 63.0101(b) accompanied by the declaration described by Subsection (i), rather than present to an election officer at the polling place one form of identification described by Section 63.0101.

(c-1) Prohibits an election officer from refusing to accept documentation presented to meet the requirements of Subsection (b) solely because the address on the documentation does not match the address on the list of registered voters.

(d) Prohibits an election officer from questioning the reasonableness of an impediment sworn to by a voter in a declaration described by Subsection (i).

(e) Requires the election officer, if the voter executes a declaration of reasonable impediment to meet the requirement for identification under Subsection (b), to affix the voter's voter registration number to the declaration either in numeric or bar code form.

(i) Requires an election officer, if the requirement for identification prescribed by Subsection (b)(1) (relating to a certain form of photo identification required to be presented to an election officer at the polling place) is not met, to notify the voter that the voter may be accepted for voting if the voter meets certain requirements and executes a declaration declaring the voter has a reasonable impediment to meeting the requirement for identification prescribed by Subsection (b)(1). Provides that a person is subject to prosecution for perjury under Chapter 37 (Perjury and Other Falsification), Penal Code, or Section 63.0013, which is added by this Act, for a false statement or false information on the declaration. Requires SOS to prescribe the form of the declaration and sets forth the required contents for the prescribed declaration form.

SECTION 3. Amends Chapter 63, Election Code, by adding Section 63.0013, as follows:

Sec. 63.0013. FALSE STATEMENT ON DECLARATION OF REASONABLE IMPEDIMENT. (a) Provides that a person commits an offense if the person intentionally makes a false statement or provides false information on a declaration executed under Section 63.001(i).

(b) Provides that an offense under this section is a state jail felony.

SECTION 4. Amends Section 63.004(a), Election Code, to require that the combination forms include space for an election officer to indicate whether a voter executed a declaration of reasonable impediment under Section 63.001(i).

SECTION 5. Amends Section 63.0101, Election Code, as follows:

Sec. 63.0101. DOCUMENTATION OF PROOF OF IDENTIFICATION. (a) Creates this subsection from existing text. Provides that the following documentation is an acceptable form of photo identification under this chapter (Accepting Voter):

(1) certain documentation issued to the person by DPS that has not expired or that expired no earlier than four years, rather than 60 days, before the date of presentation;

(2) makes a conforming change;

(3) makes no changes to this subdivision;

(4) a United States passport book or card issued to the person that has not expired or that expired no earlier than four years before the date of presentation. Makes a conforming change; or

(5) makes a conforming change.

(b) Provides that certain documentation is acceptable as proof of identification under this chapter.

(c) Authorizes a person 70 years of age or older to use a form of identification listed in Subsection (a) that has expired for the purposes of voting if the identification is otherwise valid.

SECTION 6. Amends Section 63.012(b), Election Code, to provide that an offense under this section (Unlawfully Accepting or Refusing to Accept Voter) is a Class A, rather than Class B, misdemeanor.

SECTION 7. Amends Section 272.011(b), Election Code, as follows:

(b) Requires SOS to prepare the translation for election materials required to be provided in a language other than English or Spanish for, among certain other state prescribed voter forms, the reasonable impediment declaration required by Section 63.001(b). Redesignates existing Subdivisions (4), (5), (6), (7), and (8) as Subdivisions (5), (6), (7), (8), and (9) and makes no further changes to these subdivisions.

SECTION 8. Amends Section 521A.001(a), Transportation Code, to require DPS to issue an election identification certificate to a person who states that the person is obtaining the certificate for the purpose of satisfying Section 63.001(b), Election Code, and does not have another form of identification described by Section 63.0101(a), rather than by Section 63.0101, Election Code.

SECTION 9. Effective date: January 1, 2018.