

BILL ANALYSIS

Senate Research Center

S.B. 14
By: Fraser et al.
Committee of the Whole
8/3/2011
Enrolled

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Under current law, to vote a regular ballot, voters are only required to present a voter registration certificate to a poll worker. While this practice attempts to ensure that only registered voters receive a regular ballot on Election Day, it leaves a potential loophole for fraud. With the current process, no statutory standards exist to verify the identity of individuals at the polling place when they present a voter registration certificate. On Election Day, an election judge must accept a voter if a voter registration certificate is valid, even if the judge suspects that the voter is not the person listed on the certificate.

S.B. 14 amends current law relating to requirements to vote, including presenting proof of identification, and provides criminal penalties.

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 13.002, Election Code, by adding Subsection (i), to require an applicant who wishes to receive an exemption from the requirements of Section 63.001(b) on the basis of disability to include with the person's application written documentation from the United States Social Security Administration evidencing the applicant has been determined to have a disability, or from the United States Department of Veterans Affairs evidencing the applicant has a disability rating of at least 50 percent; and a statement in a form prescribed by the secretary of state (SOS) that the applicant does not have a form of identification acceptable under Section 63.0101.

SECTION 2. Amends Section 15.001, Election Code, by adding Subsection (c), to require that a certificate issued to a voter who meets the certification requirements of Section 13.002(i) contain an indication that the voter is exempt from the requirement to present identification other than the registration certificate before being accepted for voting.

SECTION 3. Amends Subchapter A, Chapter 15, Election Code, effective September 1, 2011, by adding Section 15.005, as follows:

Sec. 15.005. NOTICE OF IDENTIFICATION REQUIREMENTS. (a) Requires the voter registrar of each county (registrar) to provide notice of the identification requirements for voting prescribed by Chapter 63 (Accepting Voter) and a detailed description of those requirements with each voter registration certificate issued under Section 13.142 (Initial Registration Certificate) or renewal registration certificate issued under Section 14.001 (Renewal Registration Certificate).

(b) Requires SOS to prescribe the wording of the notice to be included on the certificate under this section.

SECTION 4. Amends Section 15.022(a), Election Code, as follows:

(a) Requires the registrar to make the appropriate corrections in the registration records, including, if necessary, deleting a voter's name from the suspense list:

(1)-(2) Makes no changes to these subdivisions;

(3) after receipt of a registration omissions list and any affidavits executed under Section 63.006 (Voter With Correct Certificate Who Is Not On List), rather than Section 63.007 (Voter With Incorrect Certificate Who Is Not On List), following an election; or

(4)-(8) Makes no changes to these subdivisions.

SECTION 5. Amends Subchapter A, Chapter 31, Election Code, effective September 1, 2011, by adding Section 31.012, as follows:

Sec. 31.012. VOTER IDENTIFICATION EDUCATION. (a) Requires SOS and the registrar of each county that maintains a website to provide notice of the identification requirements for voting prescribed by Chapter 63 on each entity's respective website in each language in which voter registration materials are available. Requires SOS to prescribe the wording of the notice to be included on the websites.

(b) Requires SOS to conduct a statewide effort to educate voters regarding the identification requirements for voting prescribed by Chapter 63.

(c) Requires the county clerk of each county to post in a prominent location at the clerk's office a physical copy of the notice prescribed under Subsection (a) in each language in which voter registration materials are available.

SECTION 6. Amends Section 32.111, Election Code, effective September 1, 2011, by adding Subsection (c), to require that the training standards adopted under Subsection (a) (relating to a requirement that SOS adopt standards of training in election law and procedure for presiding or alternate election judges, develop materials for a standardized curriculum for that training, and distribute the materials to certain entities that hold certain elections) include provisions on the acceptance and handling of the identification presented by a voter to an election officer under Section 63.001 (Regular Procedure For Accepting Voter).

SECTION 7. Amends Section 32.114(a), Election Code, effective September 1, 2011, to require each election clerk to complete the part of the training program relating to the acceptance and handling of the identification presented by a voter to an election officer under Section 63.001.

SECTION 8. Amends Chapter 62, Election Code, by adding Section 62.016, as follows:

Sec. 62.016. NOTICE OF ACCEPTABLE IDENTIFICATION OUTSIDE POLLING PLACES. Requires the presiding judge to post in a prominent place on the outside of each polling location a list of the acceptable forms of identification. Requires that the list be printed using a font that is at least 24-point. Requires that the notice required under this section be posted separately from any other notice required by state or federal law.

SECTION 9. Amends Section 63.001, Election Code, by amending Subsections (b), (c), (d), and (f) and adding Subsections (g) and (h), as follows:

(b) Requires a voter, except as provided by Subsection (h), on offering to vote, to present to an election officer at the polling place one form of identification described by Section 63.0101 (Documentation Of Proof Of Identification), rather than the voter's voter registration certificate.

(c) Requires an election officer, on presentation of the documentation required under Subsection (b), rather than on presentation of a registration certificate, to determine whether the voter's name on the documentation, rather than on the registration certificate, is on the list of registered voters for the precinct. Requires the voter, if in making a

determination under this subsection the election officer determines under standards adopted by SOS that the voter's name on the documentation is substantially similar to but does not match exactly with the name on the list, to be accepted for voting under Subsection (d) if the voter submits an affidavit stating that the voter is the person on the list of registered voters.

(d) Requires that the voter be accepted for voting, if, as determined under Subsection (c), the voter's name is on the precinct list of registered voters and the voter's identity can be verified from the documentation presented under Subsection (b).

(f) Requires an election officer, after determining whether to accept a voter, to return the voter's documentation, rather than the voter's registration certificate, to the voter.

(g) Provides that if the requirements for identification prescribed by Subsection (b) are not met, the voter may be accepted for provisional voting only under Section 63.011 (Provisional Voting). Requires an election officer, for a voter who is not accepted for voting under this section, to:

(1) inform the voter of the voter's right to cast a provisional ballot under Section 63.011; and

(2) provide the voter with written information, in a form prescribed by SOS, that:

(A) lists the requirements for identification;

(B) states the procedure for presenting identification under Section 65.0541;

(C) includes a map showing the location where identification must be presented; and

(D) includes notice that if all procedures are followed and the voter is found to be eligible to vote and is voting in the correct precinct, the voter's provisional ballot will be accepted.

(h) Provides that the requirements for identification prescribed by Subsection (b) do not apply to a voter who is disabled and presents the voter's voter registration certificate containing the indication described by Section 15.001(c) on offering to vote.

SECTION 10. Amends Section 63.0011(a), Election Code, to require the election officer, if the voter's address is omitted from the precinct list under Section 18.005(c) (relating to the exclusion, under certain conditions, from the original or supplemental list of registered voters the residence address of a voter who is a federal judge, a state judge, or the spouse of a federal judge or state judge), to ask the voter if the voter's residence, if listed on identification presented by the voter under Section 63.001(b), rather than as listed on the voter's voter registration certificate, is current and whether the voter has changed residence within the county.

SECTION 11. Amends Chapter 63, Election Code, effective September 1, 2011, by adding Section 63.0012, as follows:

Sec. 63.0012. NOTICE OF IDENTIFICATION REQUIREMENTS TO CERTAIN VOTERS. (a) Requires an election officer to distribute written notice of the identification that will be required for voting beginning with elections held after January 1, 2012, and information on obtaining identification without a fee under Chapter 521A, Transportation Code, to each voter who, when offering to vote, presents a form of identification that will not be sufficient for acceptance as a voter under this chapter beginning with those elections.

(b) Requires SOS to prescribe the wording of the notice and establish guidelines for distributing the notice.

(c) Provides that this section expires on September 1, 2017.

SECTION 12. Amends Section 63.006, Election Code, as follows:

Sec. 63.006. New heading: VOTER WITH REQUIRED DOCUMENTATION WHO IS NOT ON LIST. (a) Requires a voter who, when offering to vote, presents the documentation required under Section 63.001(b), rather than presents a voter registration certificate indicating that the voter is currently registered in the precinct in which the voter is offering to vote, but whose name is not on the precinct list of registered voters, to be accepted for voting if the voter also presents a voter registration certificate indicating that the voter is currently registered in the precinct in which the voter is offering to vote, or in a different precinct in the same county as the precinct in which the voter is offering to vote and the voter executes an affidavit stating that the voter is a resident of the precinct in which the voter is offering to vote or is otherwise entitled by law to vote in that precinct, was a resident of the precinct in which the voter is offering to vote at the time the information on the voter's residence address was last provided to the voter registrar, did not deliberately provide false information to secure registration in a precinct in which the voter does not reside, and is voting only once in the election.

(b) Requires an election officer, after the voter is accepted, to indicate beside the voter's name on the poll list that the voter was accepted under this section, and enter the voter's name on the registration omissions list.

SECTION 13. Amends Section 63.009, Election Code, as follows:

Sec. 63.009. VOTER WITHOUT CERTIFICATE WHO IS NOT ON LIST. Deletes existing Subsection (a) designation. Requires a voter who does not present a voter registration certificate when offering to vote, and whose name is not on the list of registered voters for the precinct in which the voter is offering to vote, to be accepted for provisional voting if the voter executes an affidavit in accordance with Section 63.011, and deletes an exception under existing Subsection (b). Deletes existing Subsection (b) providing that, if an election officer can determine from the voter registrar that the person is a registered voter of the county and the person presents proof of identification, the affidavits required by Sections 63.007 and 63.008 are substituted for the affidavit required by Section 63.011 in complying with that section, and requiring an election officer, after the voter is accepted under this subsection, to also indicate beside the voter's name on the poll list that the voter was accepted under this section.

SECTION 14. Amends Section 63.0101, Election Code, as follows:

Sec. 63.0101. DOCUMENTATION OF PROOF OF IDENTIFICATION. Provides that the following documentation is an acceptable form of photo identification under this chapter: a driver's license, election identification certificate, or personal identification card issued to the person by the Department of Public Safety (DPS) that has not expired or that expired no earlier than 60 days before the date of presentation; a United States military identification card that contains the person's photograph that has not expired or that expired no earlier than 60 days before the date of presentation; a United States citizenship certificate issued to the person that contains the person's photograph; a United States passport issued to the person that has not expired or that expired no earlier than 60 days before the date of presentation; or a license to carry a concealed handgun issued to the person by DPS that has not expired or that expired no earlier than 60 days before the date of presentation. Deletes existing text providing that the following documentation is acceptable as proof of identification under this chapter: a driver's license or personal identification card issued to the person by DPS or a similar document issued to the person by an agency of another state, regardless of whether the license or card has expired; a form of identification containing the person's photograph that establishes the person's identity; a birth certificate or other document confirming birth that is admissible in a court of law and establishes the person's identity; United States citizenship papers issued to the person; a United States passport issued to the person; official mail addressed to the

person by name from a governmental entity; a copy of a current utility bill, bank statement, government check, paycheck, or other government document that shows the name and address of the voter; or any other form of identification prescribed by SOS.

SECTION 15. Amends Section 63.011, Election Code, by amending Subsections (a) and (b) and adding Subsection (b-1), as follows:

(a) Authorizes a person to whom Section 63.001(g) or 63.009, rather than Section 63.008(b) or 63.009(a), applies to cast a provisional ballot if the person executes an affidavit stating that the person is a registered voter in the precinct in which the person seeks to vote and is eligible to vote in the election.

(b) Requires that a form for an affidavit required by this section be printed on an envelope in which the provisional ballot voted by the person may be placed and include a space for entering the identification number of the provisional ballot voted by the person and a space for an election officer to indicate whether the person presented a form of identification described by Section 63.0101.

(b-1) Creates this subsection from existing text. Makes no further changes to this subsection.

SECTION 16. Amends Section 64.012(b), Election Code, to provide that an offense under this section is a felony of the second, rather than third, degree unless the person is convicted of an attempt, and in that case, the offense is a state jail felony, rather than a Class A misdemeanor.

SECTION 17. Amends Section 65.054(b), Election Code, to require, rather than authorize, that a provisional ballot be accepted if the early voting ballot board (board) determines, rather than only if the board determines, that from the information in the affidavit or contained in public records, the person is eligible to vote in the election and has not previously voted in that election; the person meets the identification requirements of Section 63.001(b) at the time the ballot was cast or in the period prescribed under Section 65.0541; notwithstanding Chapter 110, Civil Practice and Remedies Code, executes an affidavit under penalty of perjury that states the voter has a religious objection to being photographed and the voter has consistently refused to be photographed for any governmental purpose from the time the voter has held this belief; or executes an affidavit under penalty of perjury that states the voter does not have any identification meeting the requirements of Section 63.001(b) as a result of a natural disaster that was declared by the president of the United States or the governor, occurred not earlier than 45 days before the date the ballot was cast, and caused the destruction of or inability to access the voter's identification; and the voter has not been challenged and voted a provisional ballot solely because the voter did not meet the requirements for identification prescribed by Section 63.001(b).

SECTION 18. Amends Subchapter B, Chapter 65, Election Code, by adding Section 65.0541, as follows:

Sec. 65.0541. PRESENTATION OF IDENTIFICATION FOR CERTAIN PROVISIONAL BALLOTS. (a) Authorizes a voter who is accepted for provisional voting under Section 63.011 because the voter does not meet the identification requirements of Section 63.001(b) to, not later than the sixth day after the date of the election, present a form of identification described by Section 63.0101 to the voter registrar for examination, or execute an affidavit described by Section 65.054(b)(2)(B) or (C) in the presence of the voter registrar.

(b) Requires SOS to prescribe procedures as necessary to implement this section.

SECTION 19. Amends Section 66.0241, Election Code, to require that Envelope no. 4 contain the precinct list of registered voters, the registration correction list, the registration omissions list, any statements of residence executed under Section 63.0011, and any affidavits executed under Section 63.006 or 63.011, rather than Section 63.007 or 63.011.

SECTION 20. Amends Subtitle B, Title 7, Transportation Code, by adding Chapter 521A, as follows:

CHAPTER 521A. ELECTION IDENTIFICATION CERTIFICATE

Sec. 521A.001. ELECTION IDENTIFICATION CERTIFICATE. (a) Requires 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, Election Code, and who is a registered voter in this state and presents a valid voter registration certificate, or who is eligible for registration under Section 13.001, Election Code, and submits a registration application to DPS.

(b) Prohibits DPS from collecting a fee for an election identification certificate or a duplicate election identification certificate issued under this section.

(c) Prohibits an election identification certificate from being used or accepted as a personal identification certificate.

(d) Prohibits an election officer from denying the holder of an election identification certificate the ability to vote because the holder has an election identification certificate rather than a driver's license or personal identification certificate issued under this subtitle.

(e) Requires that an election identification certificate be similar in form to, but distinguishable in color from, a driver's license and a personal identification certificate. Authorizes DPS to cooperate with the secretary of state in developing the form and appearance of an election identification certificate.

(f) Authorizes DPS to require each applicant for an original or renewal election identification certificate to furnish to DPS the information required by Section 521.142.

(g) Authorizes DPS to cancel and require surrender of an election identification certificate after determining that the holder was not entitled to the certificate or gave incorrect or incomplete information in the application for the certificate.

(h) Provides that a certificate expires on a date specified by DPS, except that a certificate issued to a person 70 years of age or older does not expire.

SECTION 21. Repealers: Sections 63.007 (Voter With Incorrect Certificate Who Is Not On List) and 63.008 (Voter Without Certificate Who Is On List), Election Code.

SECTION 22. Provides that, effective September 1, 2011:

(1) as soon as practicable, SOS is required to adopt the training standards and develop the training materials required to implement the change in law made by this Act to Section 32.111 (Training Standards For Election Judges), Election Code; and

(2) as soon as practicable, the county clerk of each county is required to provide a session of training under Section 32.114 (Public County Training Program), Election Code, using the standards adopted and materials developed to implement the change in law made by this Act to Section 32.111, Election Code.

SECTION 23. Provides that the change in law made by this Act in amending Section 64.012(b), Election Code, applies only to an offense committed on or after January 1, 2012. Provides that an offense committed before January 1, 2012, is covered by the law in effect when the offense was committed and the former law is continued in effect for that purpose. Provides that for purposes of this section, an offense is committed before January 1, 2012, if any element of the offense occurs before that date.

SECTION 24. Authorizes state funds disbursed under Chapter 19 (Financing Voter Registration), Election Code, for the purpose of defraying expenses of the voter registrar's office in connection with voter registration, effective September 1, 2011, to also be used for additional expenses related to coordinating voter registration drives or other activities designed to expand voter registration. Provides that this section expires January 1, 2013.

SECTION 25. Severability clause.

SECTION 26. Effective date, except as otherwise provided by this Act: January 1, 2012.