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Bill Analysis
Legislative Service Commission

H.B. 569

125th General Assembly
(As Introduced)

Reps. Price, Sykes, Beatty, Yates, Mason, DeBose, Allen, Barrett, S. Smith, Brown, S. Patton, Woodard, Key, Strahorn

BILL SUMMARY

- Permits an individual to cast a provisional ballot for a federal election if the individual is a registered voter in the jurisdiction and eligible to vote in that election but the name of the individual does not appear on the official list of eligible voters for the polling place or an election official asserts that the individual is not eligible to vote.
- Permits an individual to cast a provisional ballot for an election for statewide office or for an election for state questions and issues if the individual is a registered voter in the jurisdiction and eligible to vote in that election but the name of the individual does not appear on the official list of eligible voters for the polling place or an election official asserts that the individual is not eligible to vote.
- Defines a "jurisdiction" as a county for the purpose of determining whether an individual is eligible to cast a provisional ballot.
- Establishes procedures for the casting and counting of provisional ballots.
- Requires the appropriate state or local election official to establish a free access system through which an individual who casts a provisional ballot may ascertain whether the individual's vote was counted and, if it was not counted, the reason.
- Requires certain voting information to be publicly posted at each polling place on the day of each election for federal office, the day of each election for statewide office, and the day of each election for state questions and issues.

CONTENT AND OPERATION

Provisional ballots for federal elections

Overview

The Help America Vote Act of 2002 (HAVA), Public Law 107-252, 116 Stat. 1666, among other provisions, permits certain electors to cast "provisional ballots" for elections for federal office. The bill generally mirrors those federal law provisions (sec. 3505.181(A)).

Process for casting

Under the bill, if an individual declares that the individual is a registered voter in the jurisdiction in which the individual desires to vote and that the individual is eligible to vote in an election for federal office, but the name of the individual does not appear on the official list of eligible voters for the polling place or an election official asserts that the individual is not eligible to vote, the individual must be permitted to cast a provisional ballot. The bill establishes the following process for casting and counting provisional ballots (sec. 3505.181(A)):

- An election official at the polling place must notify the individual that the individual may cast a provisional ballot in the election.
- The individual must be permitted to cast a provisional ballot at that polling place upon the execution of a written affirmation before an election official stating that the individual is (1) a registered voter in the jurisdiction in which the individual desires to vote and (2) eligible to vote in the election.
- An election official at the polling place must transmit the ballot cast or the voter information contained in the written affirmation to an appropriate state or local election official for prompt verification.
- If the appropriate state or local election official to whom the ballot or voter information is transmitted determines that the individual is eligible to vote, the individual's provisional ballot must be counted as a vote in the election.

Verification of counting

At the time that an individual casts a provisional ballot, the appropriate state or local election official must give the individual written information that states that any individual who casts a provisional ballot will be able to ascertain

whether the vote was counted and, if it was not counted, the reason (sec. 3505.181(A)(5)(a)). The election official is required to establish a free access system, such as a toll-free telephone number or an Internet web site, that any individual who casts a provisional ballot may access to discover whether the individual's vote was counted and, if it was not counted, the reason. The election official must establish and maintain reasonable procedures necessary to protect the security, confidentiality, and integrity of personal information collected, stored, or otherwise used by the free access system. Access to information about an individual ballot must be restricted to the individual who cast it. (Sec. 3505.181(A)(5)(b).)

Provisional ballots for statewide elections

Overview

In addition to generally mirroring the HAVA provisions for casting provisional ballots in federal elections, the bill also permits certain electors to cast provisional ballots in elections for statewide office or for state questions and issues.¹ The bill establishes processes identical to those established for federal elections for (1) casting and counting provisional ballots in state elections and (2) permitting voters who cast those ballots to determine whether their votes were counted and, if not counted, the reason. (Sec. 3505.181(B).)

Definition of a "jurisdiction" within which a voter may cast a provisional ballot

For the purpose of determining whether an individual is eligible to cast a provisional ballot, the bill defines a "jurisdiction" as a county. Thus, any individual who is registered to vote in a county and whose name does not appear on the official list of eligible voters for the polling place at which the individual appears to vote may cast a provisional ballot in that polling place. (Sec. 3505.181(D)(1).)

Public posting of voting information

The bill requires the appropriate state or local election official to cause voting information to be publicly posted at each polling place on the day of each election for federal office, the day of each election for statewide office, and the day of each election for state questions and issues (sec. 3505.181(C)). "Voting information" means all of the following (sec. 3505.181(D)(3)):

¹ For the purpose of this provision, a "statewide office" means any of the offices of Governor, Lieutenant Governor, Secretary of State, Auditor of State, Treasurer of State, Attorney General, and Chief Justice and Justice of the Supreme Court (sec. 3505.181(D)(2)).

- A sample version of the ballot that will be used for that election;
- Information regarding the date of the election and the hours during which polling places will be open;
- Instructions on how to vote, including how to cast a vote and how to cast a provisional ballot;
- Instructions for mail-in registrants and first time voters who are required, pursuant to HAVA, to provide identification in order to vote;
- General information on voting rights under applicable federal and state laws, including information on the right of an individual to cast a provisional ballot and instructions on how to contact the appropriate officials if these rights are alleged to have been violated;
- General information on federal and state laws regarding prohibitions on acts of fraud and misrepresentation.

HISTORY

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