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## **ID plan puts spotlight on voter fraud**

### **Lawmakers at odds over size of problem in Texas elections**

**Juan Castillo**

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Even in a state known for its history of political theater, the meltdown surrounding a proposed voter identification measure is the stuff of melodrama, adding new twists as the Legislature plods toward its final act this session.

On Monday, willing to risk a threat that his body is rejecting a transplanted liver, Sen. Mario Gallegos Jr., D-Houston, returned to Austin and a hospital bed in the Senate lounge. Gallegos was poised to block House Bill 218, which would require voters to provide personal identification at the polls.

Last week, the white-hot rhetoric over the bill triggered finger-pointing, cursing and a standoff between Lt. Gov. David Dewhurst and John Whitmire, the Senate's senior Democrat.

Business ground to a halt the next day, with senators meeting in closed sessions for almost four hours over the fate of the bill, still pending in the Senate.

In a letter supporting the legislation, Dewhurst said "illegal aliens" have put the "basic American principle of one person, one vote in danger."

The histrionics would lead one to believe that fraudulent voting — the target of House Bill 218 and another measure, House Bill 626 — is an urgent and grave problem in Texas.

However, even Rep. Phil King, R-Weatherford, House Bill 626's sponsor, acknowledges that "there is no evidence of extensive fraud in Texas elections or of multiple voting," but it could occur.

His bill would require proof of citizenship to register to vote.

The secretary of state's office, which oversees elections, says it has no way to track whether noncitizens vote, and Attorney General Greg Abbott has said that the rare voter fraud prosecutions in Texas have been mostly related to mail-in ballots, which HB 218 and HB 626 do not address.

Critics say the measures are intended to add hurdles that would effectively suppress voter turnout among minorities, the elderly and the poor, who they say would probably vote for Democrats.

Republicans have said the bills are vital to ensuring that only citizens vote.

"For most Americans, this is a no-brainer," Dewhurst said last week.

In his letter, Dewhurst cited figures he said proved noncitizens voted in Harris, Bexar, Dallas, Tarrant and El Paso counties.

Opponents dispute the data, which was drawn from jury summons, arguing that some people claimed that they were not citizens merely to get out of jury duty.

Dewhurst also produced results of a poll he said showed that Texans overwhelmingly support HB 218.

However, the poll of 1,001 voters by Austin-based Baseline & Associates asked only whether voters should be required to show a driver's license or other photo identification "to ensure that they are U.S. citizens before they are allowed to vote."

Yet, the identification required by HB 218 wouldn't guarantee that the voter is a citizen. Most of the acceptable forms of identification under the measure, such as a driver's license issued by the state Department of Public Safety, do not verify citizenship.

A driver's license, for example, can be issued to immigrants who are legal permanent residents — meaning they're authorized to live and work here.

But legal permanent residents can't vote; only citizens can.

"House Bill 218 doesn't in any way address undocumented voting," said Luis Figueroa, an attorney with the Mexican American Legal Defense and Educational Fund. "The only thing it prevents is voter impersonation."

Critics say independent research shows that illegal immigrants do not vote. Figueroa said undocumented immigrants have no motivation to vote illegally because voting would jeopardize their chances of acquiring citizenship.

Whether HB 218 dies or lives another day might be known by midnight tonight, the deadline for the bill as written to be introduced in the Senate.

The measure could be attached in some form to a House bill that could be considered before the Legislature adjourns Monday.

HB 626, which passed in the House this month, has not been included in the Senate intent calendar and probably is dead.

With the HB 218 drama still playing out, some have speculated that the standoff can be traced to Republican party goals to come down hard on illegal immigration and Democratic counterefforts to ensure that legislation didn't overstep state authority.

Republicans filed about 30 measures targeting illegal immigrants.

But the vast majority never made it out of committee because a key House chairman, Rep. David Swinford, R-Dumas, said they were unconstitutional or pre-empted by federal law.

Swinford authored a sweeping border security measure that he said had nothing to do with illegal immigration. That angered some conservative Republicans.

When the border security bill passed the House earlier this month, Rep. Leo Berman, R-Tyler, in a blistering speech on the House floor, said constituents were demanding legislative action.

"Everyone on this floor needs a vote on illegal aliens to take home and say we did a little something about it," Berman said.

Though the battle lines on voter ID have pitted Democrats against Republicans in the Legislature, a prominent GOP consultant differed with his party on the issue.

"They're just basically using sheer racism to pump their own political points" said Royal Masset, the former political director for the Republican Party of Texas. "They're trying to exploit

the public fear of illegal aliens."

Masset said voter ID bills are an "extremely popular vote on the grassroots level." But the idea that illegal immigrants vote "is one of those urban myths that just has caught on and everyone assumes is true."

John Colyandro, executive director of the Texas Conservative Coalition Research Institute, disagreed, saying that the data cited by Dewhurst show that noncitizens are registering to vote and voting, which "ought to be a matter of concern for every Texan, regardless of race or ethnicity."

Said Colyandro, "We have no idea of the magnitude of the problem, and until measures are put in place to verify the integrity of the voter rolls, we can't begin to put a figure as to how many people have illegally registered or illegally voted."

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Proposed voter identification measure

The legislation passed out of the House on a straight party-line vote after a contentious debate.

Originally sponsored by Rep. Betty Brown, R-Athens, and sponsored in the Senate by Troy Fraser, R-Horseshoe Bay, House Bill 218 would require Texans to present identification before voting.

Most of the about 20 acceptable forms of identification are not proof of citizenship.

The bill approved by the House lists the following acceptable forms of ID:

- \* Driver's license or personal identification card issued by the Department of Public Safety.
- \* U.S. military ID card containing the person's photograph.
- \* Valid employee identification card containing the person's photograph.
- \* U.S. citizenship certificate.
- \* U.S. passport.
- \* Student ID card issued by a public or private higher education institution and containing the person's photograph.
- \* License to carry a concealed handgun issued by the Department of Public Safety.
- \* Photo ID card issued by an agency or institution of the federal government or a political subdivision of the state.
- \* Copy of a current utility bill, bank statement, government check, paycheck or other government document showing the voter's name and address.
- \* Official mail from a governmental entity.
- \* Certified copy of a birth certificate or document confirming birth.
- \* U.S. citizenship papers.
- \* Original or certified copy of marriage license or divorce decree.
- \* Court records of adoption, name change or sex change.
- \* ID card issued by a governmental entity for the purpose of obtaining public benefits.
- \* Temporary driving permit issued by the DPS.
- \* Pilot's license issued by the Federal Aviation Administration or other authorized federal

agency.

\* Library card issued in the state.

\* Hunting or fishing license issued by the Parks and Wildlife Department.

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### **Abbott's vote fraud effort yields no GOP prosecutions**

### **Democrats see bias; office says outside complaints drove cases**

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DALLAS - Republican Attorney General Greg Abbott, who said two years ago that Texas faced an epidemic of vote fraud, has since prosecuted 26 cases, all against Democrats and most of them black or Hispanic, according to a published report.

The cases have usually resulted in small fines and little or no jail time, The Dallas Morning News reported in Sunday's editions.

The newspaper said none of the cases involved large schemes with the potential to tip elections.

Democrats accused Abbott of conducting a partisan campaign to intimidate minority voters.

Abbott established a special vote fraud unit in his office, used a \$1.4 million federal grant and sent investigators to look for fraud.

Most of the cases his office pursued involved mail-in ballots. In 18 of the 26 cases, the voters were eligible and their votes were properly cast, but the people who gathered them for mailing were prosecuted. State law bans carrying someone else's completed ballot to the mailbox unless the carrier's name and address are on the envelope.

Matt Angle of the Lone Star Project, a group that says its mission is to fact-check Republicans, said Abbott has mostly gone after people in heavily Democratic precincts who helped elderly or disabled neighbors vote.

Angle called the prosecutions "an exercise in intimidation. They are trying to send a message to a much larger community that voting is a risky business."

The most serious cases prosecuted were against a former Port Lavaca City Council member who lied to a grand jury about registering noncitizens to vote and a Refugio County commissioner who gave mail-in ballots to residents to mark in his presence. Both were convicted and imprisoned.

Others included a woman who voted for her dead mother and a man who voted twice.

Some of the cases have flopped. In March, a judge dismissed charges against three Hidalgo County women who were indicted on charges that they illegally assisted elderly voters and mishandled mail-in ballots in a 2005 mayoral race in McAllen.

Jerry Strickland, spokesman for Abbott, said each case that the attorney general prosecuted started with a complaint from an outside party.

The newspaper said it couldn't tell how many complaints the attorney general has received or investigated because, except for a list of the cases prosecuted, Abbott's office declined to release documents that the newspaper sought under public records laws.

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**Voter ID back in spotlight**  
**Senate to tackle issue in unusual session**  
**W. Gardner Selby**

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State lawmakers, resuming a fight that cleaves Republicans and Democrats nationally, are set to clash again this week over whether voter fraud at the polls is a pressing problem and whether some Texans won't vote if required to present a photo ID or other documents.

Supporters of voter identification say law-abiding citizens will have no qualms about proving their identity to protect the sanctity of the ballot box. Opponents counter that an ID mandate is intended to discourage voters sensitive to past discrimination at the polls.

It's shaping up as the 2009 Legislature's first all-out brawl.

Both major parties are lining up witnesses to speak at a Tuesday Senate hearing in which all 31 senators are meeting as a committee of the whole. It's expected to last into the wee hours or longer, even though the outcome is scarcely in doubt.

Senate President Pro Tem Robert Duncan, R-Lubbock, is expected to chair the session.

Republican Lt. Gov. David Dewhurst will take Duncan's place in the Senate and will vote on the bill.

Republicans, who hold a 19-12 majority in the chamber, tweaked the body's rules in January to permit senators to take up voter ID legislation by a majority vote rather than the traditional two-thirds.

The debate over changing the usual rule resulted in a dramatic display of partisan bloodletting on the second day of the 2009 session. At one point, Dewhurst faced a challenge to his status as presiding officer.

Republican Rep. Todd Smith of Euless, chairman of the House Committee on Elections, said competing views on voter ID laws may reflect unjustified hysteria on both sides. He says the proposal is a mild departure from existing law, which allows voters to present either a registration card or sign in after showing a government-issued photo ID card, birth certificate, passport or other documents.

But San Antonio Sen. Leticia Van de Putte, who chairs the Senate Democratic Caucus, said the hearing will ripple with tension reflecting the past denial of voting rights to black and Hispanic residents once subject to poll taxes and literacy tests. Democrats say that asking voters to prove their identities will drive down minority turnout, putting Texas in violation of anti-discrimination provisions in the Voting Rights Act of 1965.

"This is a true voter-suppression bill," Van de Putte said.

Seven states now ask voters for photo identification, and last year the U.S. Supreme Court upheld Indiana's law.

Texas House members approved voter ID mandates in 2005 and 2007, but the proposals died in the Senate partly as a result of the two-thirds' threshold.

Advocates express optimism about getting a measure to GOP Gov. Rick Perry this round, though the House's membership is more narrowly split than before: 76-74 for Republicans.

Reps. Delwin Jones of Lubbock and Tommy Merritt of Longview, the sole House Republicans to vote against the proposal in 2007 alongside every Democrat present, have yet to take

positions this year; both want to see what the Senate hatches.

Possible sweeteners floated by Dewhurst include a two- to-four-year grace period before identification demands are enforced and a provision that taxpayers fund ID cards for citizens lacking them. (A standard Texas driver's license, good for six years, costs \$24 .)

Jones said poll workers might be hard to recruit if they must enforce an ID law. He added, "I haven't seen any strong evidence of illegal voting."

From August 2002 to January 2008 , Attorney General Greg Abbott prosecuted 22 instances of alleged voter fraud out of millions of ballots cast during that time. They include one case of a person cutting in front of two elderly voters to cast a ballot and a person voting for her deceased mother.

The then-tax assessor-collector of Harris County testified to a House committee in 2007 that there had been about 24 people since the 1990s "voting" after they'd died; authorities couldn't pin down who turned in the ballots. A Travis County official testified about a woman once voting for herself and for her mother.

Merritt said past voter ID proposals were more about energizing conservative Republicans than combating fraud.

Merritt was recently urged to support the ID proposal by Robin Armstrong , vice chairman of the Republican Party of Texas.

"The party is not focused on what's important to the people," Merritt said. He said his constituents are focused on economic woes, the decline in their 401(k) funds and how to survive in retirement.

Armstrong later said Republicans care about the economy and other issues but would love to see voter ID survive. "It's a very important issue to the people of Texas," he said, referring to a poll suggesting voters of different persuasions support an ID requirement.

Sen. Troy Fraser, R-Horseshoe Bay , co-author of the Senate's ID proposal, said he intends to make it easier to vote in Texas than in Indiana or Georgia, which both have voter ID laws.

Under Fraser's proposal, voters unable to produce a photo ID could still vote if they presented two documents demonstrating their identity. Listed alternatives range from utility bills to divorce decrees to court records of a sex-change operation. And if they can't meet the document request, they'll still be allowed to cast a provisional ballot, which election officials could count later.

Fraser said it's incorrect that Texas doesn't have a problem with voter impersonation. "The problem in Texas is, we don't have the ability to identify when somebody is doing this," he said, noting that state law since 1997 has allowed voters to proceed solely by showing voter registration cards.

Opponents insist some elderly and minority voters, who often lean Democratic, will be deterred by new identification requirements because they don't have photo IDs.

Supporters of the change note that photo IDs or alternatives such as birth certificates and official mail are already required to register to vote in Texas.

Tim Vercellotti , a Massachusetts political scientist who has studied the turnout impact of ID laws, said scientists haven't reached consensus on the effects of voter ID laws.

Fraser hails from Llano County, whose longtime clerk, Bette Sue Hoy , said she's never had someone impersonate another voter.

But Hoy, a Republican, said she'd welcome an ID requirement: "It doesn't matter if you're a Democrat or Republican, we need to make sure everything is right."  
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#### Senate Bill 362

\* Requires a voter to present a voter registration card plus a photo ID or other self-identifying documents.

\* Acceptable photo IDs include a driver's license or personal ID card issued by the Texas Department of Public Safety, a U.S. military identification card, a U.S. citizenship certificate, a U.S. passport, a license to carry a concealed handgun issued by the DPS or a valid ID card issued by a state, federal or local political subdivision.

\* Other acceptable documents (two required) would be: a copy of a current utility bill, bank statement, government check, paycheck or other government document showing voter's name and address; official mail addressed to the voter by the government; a certified copy of a birth certificate or other document confirming the voter's birth that's admissible in court; U.S. citizenship papers issued to the voter; an original or certified copy of the person's marriage license or divorce decree; court records of a voter's adoption, name change or sex change; a photo ID card issued by a government agency to obtain benefits including veteran's benefit, Medicaid or Medicare; a temporary DPS driving permit; a pilot's license from the Federal Aviation Administration; a Texas public library card; or a hunting or fishing license from the Texas Parks and Wildlife Department.

\* A voter who can't fulfill the identification mandate may cast a provisional ballot subject to being counted after the others.

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