

BILL ANALYSIS

C.S.H.B. 963
By: Gattis
Elections
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Under current law, a voter who has applied for an early mail ballot is not allowed to cast a ballot on election day unless the voter first cancels the application. To do this, the voter must sign an affidavit in person at the early voting clerk's main office. This creates a hardship for voters who may not fully realize the procedure until after they have showed up at their polling place on election day. This is especially true for elderly or disabled voters, a majority of those casting mail ballots, who may not have adequate transportation to the clerk's office. Some of these voters decide not to vote early by mail but others never received their mail ballots. With the implementation of provisional voting in recent years, these voters should be allowed to cast a provisional ballot on election day, as an alternative to traveling to the clerk's office. CSHB 963 allows voters who did not vote early by mail to cast provisional ballots and to cancel their mail ballot applications in person at the polling place.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly delegate any additional rulemaking authority to a state officer, department, agency, or institution, however, the secretary of state is required to prescribe procedures in SECTION 4 (Sec. 87.0241, Election Code) of this bill.

ANALYSIS

CSHB 963 amends the Election Code by adding to the ways that a voter is authorized to cancel an application to cast a ballot by mail. The bill authorizes an applicant to submit a request for cancellation in person to the presiding precinct judge on election day by completing an affidavit that states that the person is a registered voter in the precinct and did not vote early by mail, and by then casting a provisional ballot. The bill requires the affidavit to be printed on the provisional ballot envelope.

To accommodate this, the bill adds to the requirements for accepting a ballot voted early by mail. The bill adds that a mail ballot is only authorized to be accepted if the voter has not requested cancellation of the application for that ballot. The bill requires marked ballots received by the early voting clerk, which were cancelled by a voter who cast a provisional ballot on election day, to be treated as a rejected ballot. The bill requires the early voting ballot board, in making a determination to accept a mail ballot, to compare the affidavits located on the outside of the provisional ballot envelopes and the ballot carrier envelopes.

The bill authorizes the early voting ballot board only to preliminarily, rather than completely, determine whether to accept ballots voted early by mail after they are delivered. The bill prohibits the board from finally determining whether to accept or count these ballots until all provisional ballots are delivered and the board has an opportunity to compare them to the mail ballots. The bill deletes the provision prohibiting the board from counting the mail ballots until the polls open on election day or until the end of the early voting period for elections in large counties. The bill requires the secretary of state to prescribe any procedures necessary for implementing these provisions, rather than only for implementing the processing of mail ballots in large counties.

The bill repeals provisions relating to determination of accepting early ballots before election day.

C.S.H.B. 963 79(R)

These provisions apply only to elections ordered on or after October 1, 2005.

EFFECTIVE DATE

October 1, 2005.

COMPARISON OF ORIGINAL TO SUBSTITUTE

The substitute modifies the original by requiring certain provisional voters to affirm that they did not vote early by mail, rather than affirming that they did not receive their early voting mail ballot. The substitute adds the provisions relating to an alternative way for canceling an application to vote early by mail. The substitute adds provisions relating to the processing and acceptance of mail ballots, including the provision requiring mail ballots to be compared to provisional ballots. The substitute removes provisions relating to the counting of provisional ballots cast by individuals eligible to vote early by mail. The substitute repeals provisions relating to the acceptance of mail ballots before election day.