

## **BILL ANALYSIS**

C.S.H.B. 2339  
By: Corte  
Elections  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

Under current Texas law, the early voting clerk is required to send early voting mail ballots to the voters by the 38th day before election day, or within 7 days of receiving the voter's application for the mail ballot. Although this timeframe is within the minimum 30-day period that the federal government has advised for transit of overseas mail ballots, it may still be too short. The Department of Justice and the Elections Assistance Commission both recommend that ballots for overseas voters be mailed not later than the 45th day before the election. In the November 2004 federal election, some counties did not mail their ballots to overseas voters until the 29th day before the election. Because of this delay, it is possible that some overseas voters, especially those voters serving in the military, did not receive their ballots in time. With the other current deadlines relating to elections, however, a mailing deadline of the 45th day before an election is too short for the printing of the ballots. CSHB 2339 requires a longer mailing period for ballots being sent to overseas voters, and adjusts other election dates, deadlines, and procedures to accommodate this change.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that rulemaking authority is expressly granted to the Secretary of State in SECTION 35 of this bill.

### **ANALYSIS**

**SECTION 1-** Amends Sec. 86.004, Election Code to provide an exception to the time for mailing ballots to voters who apply for an early voting mail ballot. Adds Sec. 86.004(b), Election Code, which requires balloting materials for voters who are outside of the United States to be mailed on or before the later of the 45th day before election day or the seventh day after the date the clerk receives the application. Requires the clerk to notify the secretary of state within 24 hours if it is not possible to mail the ballots by the 45th day before election day. Requires the secretary of state to monitor the situation and advise the clerk. Requires the clerk to mail the ballots as soon as possible in accordance with the secretary of state's guidelines.

**SECTION 2-** Amends Sec. 3.005, Election Code by providing an exception to Sec. 3.005(a), regarding the required time for an authority of a political subdivision to order an election. Adds Sec. 3.005(c), requiring an election to be held on the date of the general election for state and county officers to be ordered not later than the 70th day before election day.

**SECTION 3-** Adds Sec. 143.007(c), Election Code to provide that the filing deadline for candidates for city office in an election held on the date of the general election for state and county officers is the 70th day before election day.

**SECTION 4-** Adds Sec. 143.008, Election Code to provide that provisions providing an extended filing deadline for city offices with a four-year term do not apply to elections held on the date of the general election for state and county officers.

**SECTION 5-** Amends Sec. 144.005(a) and 144.005(c), Election Code to provide an exception for the filing deadline for candidates for an office of a political subdivision other than a city or a county. Adds Sec. 144.005(d), which provides that the filing deadline for these candidates, in an

election to be held on the date of the general election for state and county officers is the 70th day before election day.

SECTION 6- Amends Secs. 144.006(a) and 144.006(b), Election Code to modify the filing deadline for declared write-in candidates for an office of a political subdivision other than a city or a county to the 62nd, rather than the 45th day before election day. Provides that the filing deadline for these candidates for elections held on the date of the general election for state and county officers is the 67th day before election day.

SECTION 7- Amends Secs. 145.032 and 145.035, Election Code to prohibit a candidate from withdrawing after the 74th, rather than the 65th day before election day, and by requiring a candidate's name to be omitted from the ballot if the candidate withdraws, dies, or is declared ineligible on or before this date, rather than 65th day before election day.

SECTION 8- Amends Sec. 145.037(e), Election Code to provide that the certification of a replacement nominee must be delivered not later than 5 p.m. of the 70th, rather than the 60th, day before election day.

SECTION 9- Amends Sec. 145.038(b), Election Code to provide that the state chair must deliver the certification of the replacement nominee, if the county executive committee fails to do so, not later than 5 p.m. of the 67th, rather than the 57th, day before election day.

SECTION 10- Amends Sec. 145.039, Election Code to require a candidate's name to be placed on the ballot if the candidate dies or is declared ineligible after the 74th, rather than the 65th, day before election day.

SECTION 11- Amends Sec. 145.062, Election Code to prohibit a candidate from withdrawing from the general election after the 74th, rather than the 65th, day before election day. Amends Sec. 145.064(a), Election Code to require a candidate's name to be omitted from the ballot if the candidate withdraws, dies, or is declared ineligible on or before the 74th, rather than the 65th, day before election day. Amends Sec. 145.065, Election Code to require a candidate's name to be placed on the ballot if the candidate dies or is declared ineligible after the 74th, rather than the 65th, day before election day.

SECTION 12- Adds Sec. 145.092(f), Election Code to prohibit a candidate in an election for which the filing deadline for an application for a place on the ballot is not later than 5 p.m. of the 70th day before election day from withdrawing from the election after 5 p.m. of the 67th day before election day.

SECTION 13- Amends Sec. 145.094, Election Code to require the name of a candidate be omitted from the ballot if the candidate withdraws or is declared ineligible before 5 p.m. of the 67th day before election day, in an election subject to Sec. 145.092(f), Election Code.

SECTION 14- Amends Sec. 145.096(a), Election Code to require that a candidate's name be placed on the ballot if the candidate is declared ineligible after 5 p.m. of the 67th day before election day, in an election subject to Sec. 145.092(f), Election Code.

SECTION 15- Amends Sec. 145.097, Election Code to provide that Subchapter D, Chapter 145 of the Election Code prevails in regard to an election subject to Section 145.092(f) to the extent of any conflict relating to provisions governing the withdrawal, death, or ineligibility of candidates for offices prescribed by a home-rule city charter.

SECTION 16- Amends Sec. 146.025(a), Election Code to provide that a declaration of write-in candidacy must be filed not later than 5 p.m. of the 70th, rather than the 60th, day before general election day. Amends Sec. 146.025(b), Election Code to authorize a declaration of write-in candidacy to be filed not later than 5 p.m. of the 67th, rather than the 57th, day before election day, if a candidate whose name is to appear on the general election ballot dies or is declared ineligible after the third day before the date of the filing deadline prescribed by Sec. 146.025(a).

SECTION 17- Amends Sec. 146.029(c), Election Code to require the certifying authority to deliver the certification to the authority responsible for having the official ballot prepared in each applicable county, not later than the 62nd, rather than the 55th, day before election day.

SECTION 18- Amends Sec. 146.0301(a), Election Code to prohibit a write-in candidate from withdrawing from the election after the 67th, rather than the 46th, day before election day. Amends Sec. 146.0301(d), Election Code to require that a candidate's name be omitted from the list of write-in candidates if the candidate withdraws on or before the 67th, rather than the 46th, day before election day.

SECTION 19- Amends Sec. 146.054(a), Election Code to provide an exception to the deadline for filing a declaration of write-in candidacy. Adds Sec. 146.054(b) to provide that the day of the filing deadline for an election to be held on the date of the general election for state and county officers is the 67th day before election day.

SECTION 20- Amends Sec. 161.008(b), Election Code to require the secretary of state to deliver the certification to the authority responsible for having the official general election ballot prepared in each applicable county not later than the 62nd, rather than the 55th, day before election day.

SECTION 21- Amends Sec. 192.031, Election Code to provide that a political party is entitled to have the names of its nominees for president and vice-president of the United State placed on the ballot in a presidential general election if the party's state chair signs and delivers to the secretary of state the required written certification before 5 p.m. of the 70th, rather than 60th, day before presidential election day.

SECTION 22- Amends Sec. 192.033(b), Election Code to require the secretary of state to deliver the certification to the authority responsible for having the official ballot prepared in each county not later than the 62nd, rather than the 55th, day before presidential election day.

SECTION 23- Amends Sec. 192.062(a), Election Code to require the secretary of state to certify in writing for placement on the ballot the name of a political party's replacement nominee for president or vice-president if the original nominee withdraws, dies, or is declared ineligible on or before the 74th, rather than the 65th, day before presidential election day; and if the party's state chair delivers certification of the replacement nominee's name to the secretary of state not later than 5 p.m. of the 70th, rather than the 60th, day before presidential election day.

SECTION 24- Amends Sec. 192.063(a), Election Code to require the name of an independent presidential candidate and the name of the candidate's running mate to be omitted from the ballot if the presidential candidate withdraw, dies, or is declared ineligible on or before the 74th, rather than the 65th, day before presidential election day.

SECTION 25- Amends Sec. 192.064(a), Election Code to require the secretary of state to certify in writing for placement on the ballot the name of a replacement vice-presidential running mate for an independent presidential candidate if the original running mate withdraws, dies, or is declared ineligible on or before the 74th, rather than the 65th, day before presidential election day; and if the independent presidential candidate delivers signed certification of the replacement running mate's name to the secretary of state not later than 5 p.m. of the 70th, rather than the 60th, day before presidential election day.

SECTION 26- Adds Sec. 201.051(b), Election Code to require that a special election for a vacancy to be held on the date of the general election for state and county officers be ordered not later than the 70th day before election day. Amends Sec. 201.051(a), Election Code to conform to the addition of subsection (b).

SECTION 27- Amends Sec. 201.054(a), Election Code to provide for an exception to the deadline for filing a candidate's application for a place on a special election ballot. Adds Sec. 201.054(f), Election Code to provide that the filing deadline for a place on a special election ballot, which is to be held on the date of the general election for state and county officers, is the 67th day before election day.

SECTION 28- Amends Sec. 202.002, Election Code to modify the deadline for a vacancy to be filled at a general election. Requires that a vacancy that occurs on or before the 74th, rather than the 65th, day before the general election for state and county officers be filled at the next such general election, and prohibits a vacancy that occur after that day from being filled at the next general election.

SECTION 29- Amends Sec. 202.007(a), Election Code to change the filing deadline for an independent candidate for a vacancy that occurs after runoff primary election day to the earlier of 5 p.m. of the 30th day after the date the vacancy occurs or 5 p.m. of the 70th, rather than the 60th, day before general election day.

SECTION 30- Amends Sec. 11.055(a), Education Code to provide for an exception to the filing deadline for a place on the ballot for a candidate for trustee of an independent school district. Adds Sec. 11.055(c), Education Code to provide that the filing deadline for these candidates is the 70th day before election day, if the election is to be held on the date of the general election for state and county officers.

SECTION 31- Amends Sec. 11.056(b), Education Code and adds Sec. 11.056(e), Education Code to provide that the filing deadline for declaration of write-in candidacy for trustee of an independent school district is the 67th day before election day, if the election is to be held on the date of the general election for state and county officers.

SECTION 32- Amends Sec. 130.0825(a), Education Code and adds Sec. 130.0825(e), Education Code to provide that the filing deadline for declaration of write-in candidacy for trustee of a junior college district is the 67th day before election day, if the election is to be held on the date of the general election for state and county officers.

SECTION 33- Amends Sec. 285.131(d), Health and Safety Code, and adds Sec. 285.131(g), Health and Safety Code to provide that the filing deadline for declaration of write-in candidacy for a member of the board of a hospital district is the 67th day before election day, if the election is to be held on the date of the general election for state and county officers.

SECTION 34- Amends Sec. 63.0945(d), Water Code, and adds Sec. 63.0945(f), Water Code to provide that the filing deadline for declaration of write-in candidacy for a commissioner of a navigation district is the 67th day before election day, if the election is to be held on the date of the general election for state and county officers.

SECTION 35- Requires the secretary of state to adopt rules as necessary to implement the Act, including the adjustment of any affected date, deadline, or procedure.

SECTION 36- Effective Date: September 1, 2005.

### **EFFECTIVE DATE**

September 1, 2005.

### **COMPARISON OF ORIGINAL TO SUBSTITUTE**

The substitute modifies the original by requiring ballots for overseas voters to be mailed not later than the 7th, rather than the 3rd, day after the clerk receives the application for a ballot. The substitute adds provisions relating to ballots not able to be mailed by the deadline. The substitute adds provisions adjusting dates, deadlines, and procedures, other than the date for mailing ballots to overseas voters, and adds the provision requiring the secretary of state to adopt necessary rules.