

## **BILL ANALYSIS**

Senate Research Center

H.B. 2339  
By: Corte (Jackson, Mike)  
State Affairs  
5/20/2005  
Committee Report (Amended)

### **AUTHOR'S/SPONSOR'S STATEMENT OF INTENT**

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.

H.B. 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**

Rulemaking authority is expressly granted to the secretary of state in SECTION 35 of this bill.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Section 86.004, Election Code, as follows:

Sec. 86.004. TIME FOR PROVIDING BALLOT TO VOTER. (a) Makes a conforming change.

(b) Requires the balloting materials, for the general election for state and county officers, for a certain voters to be mailed on or before the later of the 45th day before election day or the seventh calendar day after the date the clerk receives the application. Requires the clerk, if it is not possible to mail the ballots by the deadline of the 45th day before election day, to notify the secretary of state within 24 hours of knowing that the deadline will not be met. 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 Section 3.005, Election Code, by amending Subsection (a) and adding Subsection (c), as follows:

(a) Makes a conforming change.

(c) Requires an election to be ordered not later than the 70th day before election day for an election to be held on the date of the general election for state and county officers.

SECTION 3. Amends Section 143.007, Election Code, by adding Subsection (c), to provide that the day of the filing deadline is the 70th day before election day for an election to be held on the date of the general election for state and county officers

SECTION 4. Amends Section 143.008, Election Code, by adding Subsection (c) to provide that this section does not apply to an election to be held on the date of the general election for state and county officers.

SECTION 5. Amends Section 144.005, Election Code, by amending Subsections (a) and (c) and adding Subsection (d) as follows:

(a), (c), and (d) Makes conforming changes.

SECTION 6. Amends Section 144.006, Election Code, as follows:

Sec. 144.006. FILING DEADLINE FOR DECLARED WRITE-IN CANDIDATE. (a) Creates this subsection from existing text. Requires, except as otherwise provided by law, a declaration of write-in candidacy by a specific time in an election in which the filing deadline for an application for a place on the ballot is the 62nd, rather than the 45th, day before election day.

(b) Provides that for an election to be held on the date of the general election for state and county officers, the day of the filing deadline is the 67th day before election day.

SECTION 7. Amends Sections 145.032 and 145.035, Election Code, as follows:

Sec. 145.032. DEADLINE FOR WITHDRAWAL. Prohibits a candidate from withdrawing from the general election after the 74th, rather than 65th, day before election day.

Sec. 145.035. WITHDRAWN, DECEASED, OR INELIGIBLE CANDIDATE'S NAME OMITTED FROM BALLOT. Makes a conforming change.

SECTION 8. Amends Section 145.037(e), Election Code, to require the certification to be delivered not later than 5 p.m. of the 70th, rather than the 60th, day before election day.

SECTION 9. Amends Section 145.038(b), Election Code, to make a conforming change.

SECTION 11. Amends Sections 145.062, 145.064, and 145.065, Election Code, to make conforming changes.

SECTION 12. Amends Section 145.092, Election Code, by adding Subsection (f), 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 Section 145.094(a), Election Code, is to make a conforming change.

SECTION 14. Amends Section 145.096(a), Election Code, to make a conforming change.

SECTION 15. Amends Section 145.097, Election Code, to provide that this subchapter prevails in regard to an election subject to 145.092(f).

SECTION 16. Amends Sections 146.025(a) and (b), Election Code, to make modifications to the dates of certain filings of write-in candidates.

SECTION 17. Amends Section 146.029(c), Election Code, to require the certifying authority, no later than the 62nd, rather than 55th, day before election day, to deliver the certification to the authority responsible for having the official ballot prepared in each county in which the office sought by the candidate is to be voted on.

SECTION 18. Amends Sections 146.0301(a) and (d), Election Code, as follows:

(a) Prohibits a write-in candidate from withdrawing from the election after the 67th, rather than the 46th, day before election day.

(d) Makes a conforming change.

SECTION 19. Amends Section 146.054, Election Code, as follows:

Sec. 146.054. FILING DEADLINE. (a) Makes a conforming change.

(b) Provides that for an election to be held on the date of the general election for state and county officers, the day of the filing deadline is the 67th day before election day.

SECTION 20. Amends Section 161.008(b), Election Code, to require the secretary of state, not later than the 62nd, rather than 55th, day before general election day, the secretary of state shall deliver the certification to the authority responsible for having the official general election ballot prepared in each county in which the candidate's name is to appear on the ballot.

SECTION 21. Amends Section 192.031, Election Code, to make modifications to the circumstances under which a political party is entitled to have the names of its nominees for president and vice-president of the United States placed on the ballot in a presidential general election.

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

SECTION 23. Amends Section 192.062(a), Election Code, to make modifications to the list of circumstances under which the secretary of state is required to certify in writing for placement on the ballot the name of a political party's replacement nominee for president or vice-president of the United States.

SECTION 24. Amends Section 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 withdraws, dies, or is declared ineligible on or before the 74th, rather than 65th, day before presidential election day.

SECTION 25. Amends Section 192.064(a), Election Code, to make modifications to the list of circumstances under which the secretary of state is required to certify in writing for placement on the ballot the name of a replacement vice-presidential running mate for an independent candidate for president of the United States.

SECTION 26. Amends Section 201.051, Election Code, as follows:

Sec. 201.051. TIME FOR ORDERING ELECTION. (a) Makes a conforming change.

(b) Requires the election to be ordered not later than the 70th day before election day for a vacancy to be filled by a special election to be held on the date of the general election for state and county officers.

SECTION 27. Amends Section 201.054, Election Code, by amending Subsection (a) and adding Subsection (f), as follows:

(a) Makes a conforming change.

(f) Provides that the day of the filing deadline is the 67th day before election day for a special election to be held on the date of the general election for state and county officers

SECTION 28. Amends Section 202.002, Election Code, as follows:

Sec. 202.002. VACANCY FILLED AT GENERAL ELECTION. (a) Requires the remainder of the of an unexpired term, if a vacancy occurs on or before the 74th, rather than the 65th, day before the general election for state and county officers held in the

next-to-last even-numbered year of a term of office, to be filled at the next general election for state and county officers, as provided by this chapter.

(b) Prohibits an election for the unexpired term from being held at that general election if a vacancy occurs after the 74th, rather than 65th, day before a general election day. Provides that the appointment to fill the vacancy continues until the next succeeding general election and until a successor has been elected and has qualified for the office.

SECTION 29. Amends Section 202.007(a), Election Code, to require an independent candidate for the unexpired term, if a vacancy occurs after runoff primary election day, to file the application for a place on the ballot not later than 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, whichever is earlier.

SECTION 30. Amends Section 11.055, Education Code, by amending Subsection (a) and adding Subsection (c), as follows:

(a) Makes a conforming change.

(c) Provides that for an election to be held on the date of the general election for state and county officers, the day of the filing deadline is the 70th day before election day.

SECTION 31. Amends Section 11.056, Education Code, by amending Subsection (b) and adding Subsection (e), as follows:

(b) Makes a conforming change.

(e) Provides that for an election to be held on the date of the general election for state and county officers, the day of the filing deadline is the 67th day before election day.

SECTION 32. Amends Section 130.0825, Education Code, by amending Subsection (b) and adding Subsection (e), as follows:

(b) Makes a conforming change.

(e) Provides that for an election to be held on the date of the general election for state and county officers, the day of the filing deadline is the 67th day before election day.

SECTION 33. Amends Section 285.131, Health and Safety Code, by amending Subsection (d) and adding Subsection (g), as follows:

(d) Makes a conforming change.

(g) Provides that for an election to be held on the date of the general election for state and county officers, the day of the filing deadline is the 67th day before election day.

SECTION 34. Amends Section 63.0945, Water Code, by amending Subsection (d) and adding Subsection (f), as follows:

(d) Makes a conforming change.

(f) Provides that for an election to be held on the date of the general election for state and county officers, the day of the filing deadline is the 67th day before election day.

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

SECTION 36. Effective date: September 1, 2005.

## **SUMMARY OF COMMITTEE CHANGES**

### **Committee Amendment No. 1:**

Amends H.B. 2339, on page 11, lines 15-25, by striking Subsection (a) and substituting the following Subsection (a):

- (a) Except as provided by Subsection (f), a candidate's application for a place on a special election ballot must be filed not later than:
- (1) 5 p.m. of the 67th day before the election day, if election day is on or after the 70th day after the date the election is ordered;
  - (2) 5 p.m. of the 31st day before election day, if election day is on or after the 36th day and before the 70th day after the date the election is ordered; or
  - (3) 5 p.m. of a day fixed by the authority ordering the election, which day must be not earlier than the fifth day after the date the election is ordered and not later than the 20th day before election day, if election day is before the 36th day after the date the election is ordered.