

## **BILL ANALYSIS**

H.B. 1987  
By: Berman  
Elections  
Committee Report (Unamended)

### **BACKGROUND AND PURPOSE**

Current law provides that a person commits a criminal offense if he or she knowingly possesses another person's official vote-by-mail ballot or another person's official vote-by-mail carrier envelope. However (unless the person possesses the ballot or carrier envelope with the intent to defraud the voter or the appropriate election authority), a person who possesses the ballot or carrier envelope of another may be able to avoid a conviction if he or she can establish at least one of the specific affirmative defenses. These affirmative defenses are: (1) that the person is related to the voter within a certain degree of affinity of consanguinity, (2) that the person is registered to vote at the same address as the voter, (3) that the person is an early voting clerk or a deputy early voting clerk, (4) that (with respect to the carrier envelope) the person possesses the envelope in order to deposit it in the mail or with a common or contract carrier and has provided certain information required by the Election Code, (5) that the person is an employee of the United State Postal Service working the normal course of the employee's authorized duties, or (6) that the person is a common or contract carrier working in the normal course of the carrier's authorized duties, provided that the ballot is sealed in an official carrier envelope that is accompanied by an individual delivery receipt for that particular carrier envelope.

The purpose of H.B. 1987 is to revise the Election Code to provide that conduct that is currently covered by one of the above affirmative defenses to prosecution would no longer be subject to criminal prosecution at all.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

### **ANALYSIS**

H.B. 1987 amends the Election Code to provide that conduct that could currently be used to assert an affirmative defense to criminal prosecution would no longer be within the scope of the criminal provisions of the Election Code that relate to the offense of possessing another person's official ballot or official carrier envelope.

### **EFFECTIVE DATE**

September 1, 2007.