

By: Bohac

H.B. No. 2823

A BILL TO BE ENTITLED

1 AN ACT

2 relating to provisional voting by a person who applied for an early
3 voting ballot by mail.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

5 SECTION 1. Section 63.011, Election Code, is amended by
6 adding Subsection (a-1) and amending Subsection (b) to read as
7 follows:

8 (a-1) A person to whom the early voting clerk was required
9 to provide an early voting ballot by mail under Section 86.001 and
10 who did not vote early by mail may cast a provisional ballot on
11 election day if the person executes an affidavit stating that the
12 person:

13 (1) is a registered voter in the precinct in which the
14 person seeks to vote; and

15 (2) did not vote early by mail.

16 (b) A form for an affidavit required by this section [~~the~~
17 ~~affidavit~~] shall be printed on an envelope in which the provisional
18 ballot voted by the person may be placed and must include a space
19 for entering the identification number of the provisional ballot
20 voted by the person. The affidavit form may include space for
21 disclosure of any necessary information to enable the person to
22 register to vote under Chapter 13. The secretary of state shall
23 prescribe the form of the affidavit under this section.

24 SECTION 2. Section 84.032, Election Code, is amended by

1 amending Subsection (b) and adding Subsection (g) to read as
2 follows:

3 (b) A request must:

4 (1) be in writing and signed by the applicant;

5 (2) specify the election for which the application was
6 made; and

7 (3) except as provided by Subsection (c), (d), [~~e~~]
8 (e), or (g), be received by the early voting clerk:

9 (A) not later than the third day before election
10 day; and

11 (B) if an early voting ballot sent to the
12 applicant is returned to the clerk as a marked ballot, before the
13 marked ballot's arrival at the address on the carrier envelope.

14 (g) An applicant who did not vote early by mail may submit a
15 request to the presiding election judge on election day at the
16 applicant's precinct polling place by appearing in person,
17 executing an affidavit under Section 63.011(a-1), and casting a
18 provisional ballot.

19 SECTION 3. Section 84.036, Election Code, is amended to
20 read as follows:

21 Sec. 84.036. DISPOSITION OF RETURNED BALLOT. If an early
22 voting ballot sent to an applicant whose application is canceled is
23 returned to the early voting clerk as a marked ballot, the ballot
24 shall be treated as a marked ballot not timely returned, except that
25 a ballot canceled under Section 84.032(g) shall be treated as a
26 ballot rejected under Section 87.041.

27 SECTION 4. Section 87.0241, Election Code, is amended to

1 read as follows:

2 Sec. 87.0241. TIME OF PROCESSING BALLOTS [~~BEFORE POLLS~~
3 ~~OPEN~~]. (a) The early voting ballot board may preliminarily
4 determine whether to accept early voting ballots voted by mail in
5 accordance with Sections 87.041(b)(1)-(7) [~~Section 87.041~~] at any
6 time after the ballots are delivered to the board.

7 (b) The board may not finally determine whether to accept
8 early voting ballots voted by mail in accordance with Section
9 87.041 or count early voting ballots until all provisional ballots
10 are delivered to the general custodian of election records and the
11 board has an opportunity to compare the provisional ballots to the
12 early voting ballots voted by mail[+

13 [~~(1) the polls open on election day, or~~
14 [~~(2) in an election conducted by an authority of a~~
15 ~~county with a population of 100,000 or more or conducted jointly~~
16 ~~with such a county, the end of the period for early voting by~~
17 ~~personal appearance~~].

18 (c) The secretary of state shall prescribe any procedures
19 necessary for implementing this section [~~in regard to elections~~
20 ~~described by Subsection (b)(2)~~].

21 SECTION 5. Section 87.041, Election Code, is amended by
22 amending Subsection (b) and adding Subsection (f) to read as
23 follows:

24 (b) A ballot may be accepted only if:
25 (1) the carrier envelope certificate is properly
26 executed;
27 (2) neither the voter's signature on the ballot

1 application nor the signature on the carrier envelope certificate
2 is determined to have been executed by a person other than the
3 voter, unless signed by a witness;

4 (3) the voter's ballot application states a legal
5 ground for early voting by mail;

6 (4) the voter is registered to vote, if registration
7 is required by law;

8 (5) the address to which the ballot was mailed to the
9 voter, as indicated by the application, was outside the voter's
10 county of residence, if the ground for early voting is absence from
11 the county of residence;

12 (6) for a voter to whom a statement of residence form
13 was required to be sent under Section 86.002(a), the statement of
14 residence is returned in the carrier envelope and indicates that
15 the voter satisfies the residence requirements prescribed by
16 Section 63.0011; ~~and~~

17 (7) the address to which the ballot was mailed to the
18 voter is an address that is otherwise required by Sections 84.002
19 and 86.003; and

20 (8) the voter has not requested cancellation of the
21 application to vote early by mail under Section 84.032(g).

22 (f) In making the determination under Subsection (a)(8),
23 the board shall compare the affidavits located on the outside of the
24 envelopes for the provisional ballots cast in the election to the
25 carrier envelopes for the ballots voted by mail.

26 SECTION 6. The changes in law made by this Act apply only to
27 an election ordered on or after September 1, 2007.

1 SECTION 7. This Act takes effect September 1, 2007.