

By: Corte, Bohac, Chavez, Branch,
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H.B. No. 71

A BILL TO BE ENTITLED

AN ACT

relating to voting by military personnel serving overseas,
including the provision of ballots by electronic mail to military
personnel, their spouses, and dependents and to identification
requirements applicable to military personnel serving in combat
zones.

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

SECTION 1. Chapter 63, Election Code, is amended by adding
Section 63.0013 to read as follows:

Sec. 63.0013. EXEMPTION FROM PROOF OF IDENTIFICATION
REQUIREMENT: ACTIVE DUTY MILITARY PERSONNEL SERVING IN COMBAT ZONE.

(a) A voter is exempt from the proof of identification requirements
prescribed by Section 63.0101 if the voter is a member of the armed
forces of the United States who is on active duty under the lawful
orders of competent authority in an area that has been designated by
the president of the United States as a combat zone.

(b) The secretary of state shall prescribe procedures as
necessary to implement this section.

SECTION 2. Chapter 101, Election Code, is amended by adding
Section 101.0072 to read as follows:

Sec. 101.0072. ELECTRONIC MAIL BALLOT PROGRAM. (a) The
secretary of state shall implement a program to allow the use of
electronic mail to provide balloting materials for a general
election for state and county officers to an overseas voter who is:

1 (1) a member of the armed forces of the United States;

2 or

3 (2) a spouse or dependent of a member of the armed
4 forces of the United States.

5 (b) A county with a population of 100,000 or more shall
6 participate in the electronic mail ballot program. A county with a
7 population of less than 100,000 may participate in the program only
8 if:

9 (1) the early voting clerk of the county makes a
10 request to the secretary of state to participate; and

11 (2) the secretary of state approves the request.

12 (c) The early voting clerk in a county participating in the
13 program shall send balloting materials to an electronic mail
14 address in a form and manner prescribed by the secretary of state if
15 the voter:

16 (1) is an FPCA registrant and is eligible for early
17 voting by mail under Sections 101.001(1) and (2)(A);

18 (2) provides a current address that is located outside
19 the United States;

20 (3) provides an electronic mail address that contains
21 the voter's name and the suffix ".mil" or provides an electronic
22 copy of a letter from the commanding officer of the member of the
23 armed forces that indicates that the voter is a spouse or dependent
24 of the member and is residing overseas; and

25 (4) requests that balloting materials be sent by
26 electronic mail.

27 (d) Balloting materials sent to an electronic mail address

1 under Subsection (c) shall include a signature sheet for the voter.

2 (e) If the early voting clerk provides a ballot to a voter at
3 an electronic mail address under Subsection (c), the clerk must
4 provide ballots to all voters who qualify under that subsection.

5 (f) If the early voting clerk provides a ballot to a voter at
6 an electronic mail address under Subsection (c), the clerk shall
7 amend the voter's federal postcard application for future elections
8 with the voter's current address.

9 (g) A ballot sent to an electronic mail address under
10 Subsection (c) must be returned with the signature sheet by the
11 method provided by:

12 (1) Section 101.008; or

13 (2) Section 105.001, regardless of whether the voter
14 would qualify under that section.

15 (h) An electronic mail address provided under this section
16 is confidential and does not constitute public information for
17 purposes of Chapter 552, Government Code. The early voting clerk
18 shall ensure that an electronic mail address provided under this
19 section is excluded from disclosure.

20 (i) If a voter returns both a voted ballot mailed to the
21 voter under Section 101.007(a) and a voted ballot provided
22 electronically to the voter under this section, only the ballot
23 that was provided electronically may be counted. A ballot returned
24 under this chapter shall be processed in the same manner as any
25 other ballot voted by mail as provided by Chapter 87.

26 (j) All other provisions of this code that would normally
27 apply to a ballot voted under this chapter apply to a ballot voted

1 under this section, including the deadline provided by Section
2 86.007 and electronic transmission of a ballot under Section
3 105.001.

4 (k) The secretary of state may adopt rules as necessary to
5 implement this section.

6 (1) Nothing in this section may be construed to impose
7 liability with respect to the electronic mail ballot program
8 created under this section on:

9 (1) an Internet service provider;

10 (2) an interactive computer service, as defined by 47
11 U.S.C. Section 230;

12 (3) a telecommunications service, as defined by 47
13 U.S.C. Section 153; or

14 (4) a cable operator, as defined by 47 U.S.C. Section
15 522.

16 SECTION 3. This Act takes effect September 1, 2009.