

1-1 By: Van de Putte, Uresti S.B. No. 92  
1-2 (In the Senate - Filed November 10, 2008; February 10, 2009,  
1-3 read first time and referred to Committee on State Affairs;  
1-4 March 26, 2009, reported adversely, with favorable Committee  
1-5 Substitute by the following vote: Yeas 9, Nays 0; March 26, 2009,  
1-6 sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR S.B. No. 92 By: Van de Putte  
1-8 A BILL TO BE ENTITLED  
1-9 AN ACT

1-10 relating to the establishment of a program to provide a ballot by  
1-11 electronic mail to military personnel serving overseas and their  
1-12 spouses and dependents residing overseas.

1-13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-14 SECTION 1. Chapter 101, Election Code, is amended by adding  
1-15 Section 101.0072 to read as follows:

1-16 Sec. 101.0072. ELECTRONIC MAIL BALLOT PROGRAM. (a) The  
1-17 secretary of state shall implement a program to allow the use of  
1-18 electronic mail to provide balloting materials for a general  
1-19 election for state and county officers to an overseas voter who is:

1-20 (1) a member of the armed forces of the United States;

1-21 or

1-22 (2) a spouse or dependent of a member of the armed  
1-23 forces of the United States.

1-24 (b) A county with a population of 100,000 or more shall  
1-25 participate in the electronic mail ballot program. A county with a  
1-26 population of less than 100,000 may participate in the program only  
1-27 if:

1-28 (1) the early voting clerk of the county makes a  
1-29 request to the secretary of state to participate; and

1-30 (2) the secretary of state approves the request.

1-31 (c) The early voting clerk in a county participating in the  
1-32 program shall send balloting materials to an electronic mail  
1-33 address in a form and manner prescribed by the secretary of state if  
1-34 the voter:

1-35 (1) is an FPCA registrant and is eligible for early  
1-36 voting by mail under Sections 101.001(1) and (2)(A);

1-37 (2) provides a current address that is located outside  
1-38 the United States;

1-39 (3) provides an electronic mail address that contains  
1-40 the voter's name and the suffix ".mil" or provides an electronic  
1-41 copy of a letter from the commanding officer of the member of the  
1-42 armed forces that indicates that the voter is a spouse or dependent  
1-43 of the member and is residing overseas; and

1-44 (4) requests that balloting materials be sent by  
1-45 electronic mail.

1-46 (d) Balloting materials sent to an electronic mail address  
1-47 under Subsection (c) shall include a signature sheet for the voter.  
1-48 The secretary of state shall prescribe procedures to allow for the  
1-49 signature sheet to be signed by a voter using a digital signature.

1-50 (e) If the early voting clerk provides a ballot to a voter at  
1-51 an electronic mail address under Subsection (c), the clerk must  
1-52 provide ballots to all voters who qualify under that subsection.

1-53 (f) If the early voting clerk provides a ballot to a voter at  
1-54 an electronic mail address under Subsection (c), the clerk shall  
1-55 amend the voter's federal postcard application for future elections  
1-56 with the voter's current address.

1-57 (g) A ballot sent to an electronic mail address under  
1-58 Subsection (c) must be returned with the signature sheet by the  
1-59 method provided by:

1-60 (1) Section 101.008; or

1-61 (2) Section 105.001, regardless of whether the voter  
1-62 would qualify under that section.

1-63 (h) An electronic mail address provided under this section

2-1 is confidential and does not constitute public information for  
2-2 purposes of Chapter 552, Government Code. The early voting clerk  
2-3 shall ensure that an electronic mail address provided under this  
2-4 section is excluded from disclosure.

2-5 (i) If a voter returns both a voted ballot mailed to the  
2-6 voter under Section 101.007(a) and a voted ballot provided  
2-7 electronically to the voter under this section, only the ballot  
2-8 that was provided electronically may be counted. A ballot returned  
2-9 under this chapter shall be processed in the same manner as any  
2-10 other ballot voted by mail as provided by Chapter 87.

2-11 (j) All other provisions of this code that would normally  
2-12 apply to a ballot voted under this chapter apply to a ballot voted  
2-13 under this section, including the deadline provided by Section  
2-14 86.007 and electronic transmission of a ballot under Section  
2-15 105.001.

2-16 (k) The secretary of state may adopt rules as necessary to  
2-17 implement this section.

2-18 (l) Nothing in this section may be construed to impose  
2-19 liability with respect to the electronic mail ballot program  
2-20 created under this section on:

2-21 (1) an Internet service provider;

2-22 (2) an interactive computer service, as defined by 47  
2-23 U.S.C. Section 230;

2-24 (3) a telecommunications service, as defined by 47  
2-25 U.S.C. Section 153; or

2-26 (4) a cable operator, as defined by 47 U.S.C. Section  
2-27 522.

2-28 SECTION 2. This Act takes effect September 1, 2009.

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