

By: Ellis

S.B. No. 137

A BILL TO BE ENTITLED

AN ACT

relating to early voting by mail by any qualified voter.

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

SECTION 1. Section 82.005, Election Code, is amended to read as follows:

Sec. 82.005. ELIGIBILITY FOR EARLY VOTING [~~BY PERSONAL APPEARANCE~~]. Any qualified voter is eligible for early voting by mail or personal appearance.

SECTION 2. Section 84.001(a), Election Code, is amended to read as follows:

(a) To be entitled to vote an early voting ballot by mail, a person [~~who is eligible for early voting~~] must make an application for an early voting ballot to be voted by mail as provided by this title.

SECTION 3. Section 84.002(a), Election Code, is amended to read as follows:

(a) An early voting ballot application must include:

(1) the applicant's name and the address at which the applicant is registered to vote;

(2) for an application for a ballot to be voted by mail by an applicant who will be absent from the applicant's [~~on the ground of absence from the~~] county of residence on election day, the address outside the applicant's county of residence to which the ballot is to be mailed;

1 (3) for an application for a ballot to be voted by mail
2 by an applicant who is 65 years of age or older on election day or
3 has a sickness or physical condition that requires the applicant to
4 reside in a hospital or nursing home or other long-term care
5 facility, or with a relative [~~on the ground of age or disability~~],
6 the address of the hospital, nursing home or other long-term care
7 facility, or retirement center, or of a person related to the
8 applicant within the second degree by affinity or the third degree
9 by consanguinity, as determined under Chapter 573, Government Code,
10 if the applicant is living at that address and that address is
11 different from the address at which the applicant is registered to
12 vote;

13 (4) for an application for a ballot to be voted by mail
14 by an applicant who is confined [~~on the ground of confinement~~] in
15 jail as described by Section 84.009(a), the address of the jail or
16 of a person related to the applicant within the degree described by
17 Subdivision (3); and

18 (5) [~~for an application for a ballot to be voted by~~
19 ~~mail on any ground,~~] an indication of each election for which the
20 applicant is applying for a ballot[~~, and~~

21 [~~(6) an indication of the ground of eligibility for~~
22 ~~early voting~~].

23 SECTION 4. Section 84.009, Election Code, is amended by
24 amending Subsection (a) and adding Subsection (a-1) to read as
25 follows:

26 (a) This section applies only to an applicant who, at the
27 time the application for a ballot to be voted by mail is submitted,

1 is confined in jail:

2 (1) serving a misdemeanor sentence for a term that
3 ends on or after election day;

4 (2) pending trial after denial of bail;

5 (3) without bail pending an appeal of a felony
6 conviction; or

7 (4) pending trial or appeal on a bailable offense for
8 which release on bail before election day is unlikely.

9 (a-1) On request of the applicant, an application for a
10 ballot to be voted by mail [~~on the ground of confinement in jail~~]
11 may be submitted to the early voting clerk, at the discretion of the
12 authority in charge of the jail, by personal delivery by the jail
13 authority or by a designated subordinate of the authority.

14 SECTION 5. Section 84.011(a), Election Code, is amended to
15 read as follows:

16 (a) The officially prescribed application form for an early
17 voting ballot must include:

18 (1) immediately preceding the signature space the
19 statement: "I certify that the information given in this
20 application is true, and I understand that giving false information
21 in this application is a crime.";

22 (2) a statement informing the applicant of the
23 offenses prescribed by Sections 84.003 and 84.004;

24 (3) spaces for entering an applicant's voter
25 registration number and county election precinct of registration,
26 with a statement informing the applicant that failure to furnish
27 that information does not invalidate the application; and

1 (4) on an application for a ballot to be voted by mail:

2 (A) a space for an applicant [~~applying on the~~
3 ~~ground of absence from the county of residence~~] to indicate whether
4 the applicant will be absent from the applicant's county of
5 residence on election day and, if applicable, the date on or after
6 which the applicant can receive mail at the address outside the
7 county;

8 (B) a space for indicating the fact that an
9 applicant whose application is signed by a witness cannot make the
10 applicant's mark and a space for indicating the relationship or
11 lack of relationship of the witness to the applicant;

12 (C) a space for entering an applicant's telephone
13 number, with a statement informing the applicant that failure to
14 furnish that information does not invalidate the application;

15 (D) a space or box for an applicant who is 65
16 years of age or older on election day or has a sickness or physical
17 condition that requires the applicant to reside in a hospital or
18 nursing home or other long-term care facility, or with a relative,
19 [~~applying on the ground of age or disability~~] to indicate that the
20 address to which the ballot is to be mailed is the address of a
21 facility or relative described by Section 84.002(a)(3), if
22 applicable;

23 (E) a space or box for an applicant confined
24 [~~applying on the ground of confinement~~] in jail as described by
25 Section 84.009(a) to indicate that the address to which the ballot
26 is to be mailed is the address of a relative described by Section
27 84.002(a)(4), if applicable;

1 (F) spaces for entering the signature, printed
2 name, and residence address of any person assisting the applicant;

3 (G) a statement informing the applicant of the
4 condition prescribed by Section 81.005; and

5 (H) a statement informing the applicant of the
6 requirement prescribed by Section 86.003(c).

7 SECTION 6. Sections 86.001(b) and (c), Election Code, are
8 amended to read as follows:

9 (b) If the application complies with the applicable
10 requirements prescribed by this title [~~applicant is entitled to~~
11 ~~vote an early voting ballot by mail~~], the clerk shall provide an
12 official ballot to the applicant as provided by this chapter.

13 (c) Except as provided by Section 86.008, if the applicant
14 is not entitled to vote in the election [~~by mail~~], the clerk shall
15 reject the application, enter on the application "rejected" and the
16 reason for and date of rejection, and deliver written notice of the
17 reason for the rejection to the applicant at both the residence
18 address and mailing address on the application. A ballot may not be
19 provided to an applicant whose application is rejected.

20 SECTION 7. Section 86.003(c), Election Code, is amended to
21 read as follows:

22 (c) The address to which the balloting materials must be
23 addressed is the address at which the voter is registered to vote,
24 or the registered mailing address if different, unless the
25 application to vote early by mail indicates that the voter [~~ground~~
26 ~~for voting by mail is~~]:

27 (1) will be absent from the voter's [~~absence from the~~]

1 county of residence on election day, in which case the address must
2 be an address outside the voter's county of residence;

3 (2) is confined [~~confinement~~] in jail as described by
4 Section 84.009(a), in which case the address must be the address of
5 the jail or of a relative described by Section 84.002(a)(4); or

6 (3) is 65 years of age or older on election day or has a
7 sickness or physical condition that requires the applicant to
8 reside in a hospital or nursing home or other long-term care
9 facility, or with a relative, [~~age or disability~~] and [~~the voter~~] is
10 living at a hospital, nursing home or other long-term care
11 facility, or retirement center, or with a relative described by
12 Section 84.002(a)(3), in which case the address must be the address
13 of that facility or relative.

14 SECTION 8. Section 86.004(b), Election Code, is amended to
15 read as follows:

16 (b) For the general election for state and county officers,
17 the balloting materials for a voter who indicates on the
18 application for a ballot to be voted by mail or the federal postcard
19 application that the voter seeks [~~is eligible~~] to vote early by mail
20 as a consequence of the voter's being outside the United States
21 shall be mailed on or before the later of the 45th day before
22 election day or the seventh calendar day after the date the clerk
23 receives the application. However, if it is not possible to mail
24 the ballots by the deadline of the 45th day before election day, the
25 clerk shall notify the secretary of state within 24 hours of knowing
26 that the deadline will not be met. The secretary of state shall
27 monitor the situation and advise the clerk, who shall mail the

1 ballots as soon as possible in accordance with the secretary of
2 state's guidelines.

3 SECTION 9. Section 87.041(b), Election Code, is amended to
4 read as follows:

5 (b) A ballot may be accepted only if:

6 (1) the carrier envelope certificate is properly
7 executed;

8 (2) neither the voter's signature on the ballot
9 application nor the signature on the carrier envelope certificate
10 is determined to have been executed by a person other than the
11 voter, unless signed by a witness;

12 (3) ~~[the voter's ballot application states a legal~~
13 ~~ground for early voting by mail;~~

14 ~~[(4)]~~ the voter is registered to vote, if registration
15 is required by law;

16 (4) ~~[(5) the address to which the ballot was mailed to~~
17 ~~the voter, as indicated by the application, was outside the voter's~~
18 ~~county of residence, if the ground for early voting is absence from~~
19 ~~the county of residence;~~

20 ~~[(6)]~~ for a voter to whom a statement of residence form
21 was required to be sent under Section 86.002(a), the statement of
22 residence is returned in the carrier envelope and indicates that
23 the voter satisfies the residence requirements prescribed by
24 Section 63.0011; and

25 (5) ~~[(7)]~~ the address to which the ballot was mailed
26 to the voter is an address ~~[that is otherwise]~~ required by Sections
27 84.002 and 86.003.

1 SECTION 10. Section 102.001(a), Election Code, is amended
2 to read as follows:

3 (a) A qualified voter is eligible to vote a late ballot as
4 provided by this chapter if the voter has a sickness or physical
5 condition [~~described by Section 82.002~~] that prevents the voter
6 from appearing at the polling place on election day without a
7 likelihood of needing personal assistance or of injuring the
8 voter's health and originates on or after the day before the last
9 day for submitting an application for a ballot to be voted by mail.

10 SECTION 11. Sections 82.001, 82.002, 82.003, 82.004,
11 84.002(b), and 112.002(b), Election Code, are repealed.

12 SECTION 12. The changes in law made by this Act apply only
13 to an election ordered on or after September 1, 2009.

14 SECTION 13. This Act takes effect September 1, 2009.