

By: Miller of Fort Bend

H.B. No. 2262

A BILL TO BE ENTITLED

AN ACT

relating to the procedure for early voting by mail; creating an offense.

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

SECTION 1. Subchapter F, Chapter 13, Election Code, is amended by adding Section 13.1411 to read as follows:

Sec. 13.1411. EARLY VOTING BY MAIL AUDIT NUMBER. (a) The secretary of state shall prescribe a system for assigning an early voting by mail audit number to each registered voter.

(b) The secretary of state shall assign each registered voter a unique audit number, which must change each time an initial or renewal voter registration certificate is issued.

(c) An audit number assigned under this section is confidential and does not constitute public information for purposes of Chapter 552, Government Code.

(d) The secretary of state shall store in a secure database each audit number assigned under this section. An audit number may not be disclosed except for use by the members of the early voting ballot board or signature verification committee in qualifying early voting by mail ballots.

(e) The secretary of state shall establish a secure system that will enable a voter to obtain the voter's audit number without cost by telephone or over the Internet after verification of personal identifying information.

1       (f) A custodian of election records may permit the  
2 disclosure of an early voting by mail application or carrier  
3 envelope containing an audit number to an attorney licensed in this  
4 state for use in an election contest if the attorney executes an  
5 affidavit declaring that the audit number will not be disclosed  
6 outside of the contest proceedings.

7       (g) The system prescribed by the secretary of state under  
8 this section may be included in the statewide computerized voter  
9 registration system authorized under Section 18.061, provided that  
10 the system complies with the nondisclosure requirements specified  
11 in this section.

12       (h) A person commits an offense if the person discloses an  
13 early voting by mail audit number to a person other than the voter  
14 to which that number is assigned, except that:

15               (1) disclosure is permitted for official purposes as  
16 described in this code; and

17               (2) the voter to which the audit number is assigned may  
18 disclose the number.

19       (i) An offense under Subsection (h) is a Class A  
20 misdemeanor.

21       (j) The secretary of state may use funds dedicated under  
22 Chapter 19, or under Sections 31.009 and 31.011, for the purpose of  
23 defraying costs associated with developing and maintaining the  
24 system prescribed by this section.

25       SECTION 2. Section 15.001(a), Election Code, is amended to  
26 read as follows:

27       (a) Each voter registration certificate issued must

1 contain:

2 (1) the voter's name in the form indicated by the  
3 voter, subject to applicable requirements prescribed by Section  
4 13.002 and by rule of the secretary of state;

5 (2) the voter's residence address or, if the residence  
6 has no address, the address at which the voter receives mail and a  
7 concise description of the location of the voter's residence;

8 (3) the month, day, and year of the voter's birth;

9 (4) the number of the county election precinct in  
10 which the voter resides;

11 (5) the voter's effective date of registration if an  
12 initial certificate;

13 (6) the voter's registration number;

14 (7) an indication of the period for which the  
15 certificate is issued;

16 (8) a statement explaining the circumstances under  
17 which the voter will receive a new certificate;

18 (9) a space for stamping the voter's political party  
19 affiliation;

20 (10) a statement that voting with the certificate by a  
21 person other than the person in whose name the certificate is issued  
22 is a felony;

23 (11) a space for the voter's signature;

24 (12) a statement that the voter must sign the  
25 certificate personally, if able to sign, immediately on receipt;

26 (13) a space for the voter to correct the information  
27 on the certificate followed by a signature line;

1           (14) the statement: "If any information on this  
2 certificate changes or is incorrect, correct the information in the  
3 space provided, sign below, and return this certificate to the  
4 voter registrar.";

5           (15) the registrar's mailing address and telephone  
6 number; ~~and~~

7           (16) the jurisdictional or distinguishing number for  
8 the following territorial units in which the voter resides, as  
9 determined by the voter registrar:

10                   (A) congressional district;

11                   (B) state senatorial district;

12                   (C) state representative district;

13                   (D) commissioners precinct;

14                   (E) justice precinct;

15                   (F) city election precinct; and

16                   (G) school district election precinct;

17           (17) the voter's early voting by mail audit number  
18 assigned under Section 13.1411; and

19           (18) a statement indicating that the voter's early  
20 voting by mail audit number must be entered by the voter on any  
21 application for early voting by mail and on any carrier envelope  
22 containing a voted ballot.

23           SECTION 3. Section 18.066(b), Election Code, is amended to  
24 read as follows:

25           (b) Information furnished under this section may not  
26 include:

27                   (1) a voter's social security number; ~~or~~

1           (2) the residence address of a voter who is a federal  
2 judge or state judge, as defined by Section 13.0021, or the spouse  
3 of a federal judge or state judge, if the voter included an  
4 affidavit with the voter's registration application under Section  
5 13.0021 or the applicable registrar has received an affidavit  
6 submitted under Section 15.0215; or

7           (3) a voter's early voting by mail audit number  
8 assigned under Section 13.1411.

9           SECTION 4. Section 84.001(d), Election Code, is amended to  
10 read as follows:

11           (d) An application must be submitted in accordance with  
12 Section 84.007 [~~by mail~~] to the early voting clerk for the election  
13 who serves the election precinct of the applicant's residence.

14           SECTION 5. Section 84.002(a), Election Code, is amended to  
15 read as follows:

16           (a) An early voting ballot application must include:

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

19                   (2) for an application for a ballot to be voted by mail  
20 on the ground of absence from the county of residence, the address  
21 outside the applicant's county of residence to which the ballot is  
22 to be mailed;

23                   (3) for an application for a ballot to be voted by mail  
24 on the ground of age or disability, the address of the hospital,  
25 nursing home or other long-term care facility, or retirement  
26 center, or of a person related to the applicant within the second  
27 degree by affinity or the third degree by consanguinity, as

determined under Chapter 573, Government Code, if the applicant is living at that address and that address is different from the address at which the applicant is registered to vote;

(4) for an application for a ballot to be voted by mail on the ground of confinement in jail, the address of the jail or of a person related to the applicant within the degree described by Subdivision (3);

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

(6) an indication of the ground of eligibility for early voting; and

(7) the applicant's early voting by mail audit number assigned under Section 13.1411.

SECTION 6. The heading to Section 84.004, Election Code, is amended to read as follows:

Sec. 84.004. UNLAWFULLY WITNESSING APPLICATION FOR OR ASSISTING MORE THAN ONE APPLICANT.

SECTION 7. Sections 84.004(a), (b), and (c), Election Code, are amended to read as follows:

(a) A person commits an offense if, in the same election, the person:

(1) signs an early voting ballot application as a witness for more than one applicant; or

(2) assists more than one applicant, in the applicant's presence, in completing an early voting ballot application.

1 (b) It is an exception to the application of Subsection (a)  
2 that the person [~~signed early voting ballot applications for more~~  
3 ~~than one applicant~~]:

4 (1) acted as an early voting clerk or deputy early  
5 voting clerk; or

6 (2) [~~and the person~~] is related to the additional  
7 applicants as a parent, grandparent, spouse, child, or sibling.

8 (c) An application made in [A] violation of this section is  
9 not valid [~~does not affect the validity of an application involved~~  
10 ~~in the offense~~].

11 SECTION 8. Section 84.007(b), Election Code, is amended to  
12 read as follows:

13 (b) An application must be submitted to the early voting  
14 clerk by:

15 (1) mail;

16 (2) common or contract carrier; [~~or~~]

17 (3) telephonic facsimile machine, if a machine is  
18 available in the clerk's office; or

19 (4) e-mail containing a scanned image of the  
20 application, if the clerk has an e-mail address.

21 SECTION 9. Section 84.011(a), Election Code, is amended to  
22 read as follows:

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

25 (1) immediately preceding the signature space the  
26 statement: "I certify that the information given in this  
27 application is true, and I understand that giving false information

1 in this application is a crime.";

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

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

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

9 (A) a space for an applicant applying on the  
10 ground of absence from the county of residence to indicate the date  
11 on or after which the applicant can receive mail at the address  
12 outside the county;

13 (B) a space for indicating the fact that an  
14 applicant whose application is signed by a witness cannot make the  
15 applicant's mark and a space for indicating the relationship or  
16 lack of relationship of the witness to the applicant;

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

20 (D) a space or box for an applicant applying on  
21 the ground of age or disability to indicate that the address to  
22 which the ballot is to be mailed is the address of a facility or  
23 relative described by Section 84.002(a)(3), if applicable;

24 (E) a space or box for an applicant applying on  
25 the ground of confinement in jail to indicate that the address to  
26 which the ballot is to be mailed is the address of a relative  
27 described by Section 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 (I) a space for entering an applicant's early  
8 voting by mail audit number;

9 (J) a statement informing the applicant that  
10 failure to furnish the applicant's early voting by mail audit  
11 number invalidates the application; and

12 (K) a statement providing the toll-free  
13 telephone number and Internet website established by the secretary  
14 of state under Section 13.1411(e).

15 SECTION 10. Section 86.001, Election Code, is amended by  
16 adding Subsection (h) to read as follows:

17 (h) If the application does not include the applicant's  
18 correct early voting by mail audit number, the clerk shall reject  
19 the application and notify the applicant of the rejection in  
20 accordance with Section 86.008.

21 SECTION 11. Section 86.005, Election Code, is amended by  
22 adding Subsection (f) to read as follows:

23 (f) The voter must include the voter's early voting by mail  
24 audit number on the space provided on the carrier envelope. If the  
25 carrier envelope certificate is not signed or the audit number is  
26 not provided, the ballot is not valid.

27 SECTION 12. Section 86.0051, Election Code, is amended by

1 adding Subsection (f) to read as follows:

2 (f) An offense committed under Subsection (a) or (c)  
3 invalidates the associated ballot.

4 SECTION 13. Section 86.010(d), Election Code, is amended to  
5 read as follows:

6 (d) A voter's ballot may not be counted if:

7 (1) the [If a] voter is assisted in violation of  
8 Subsection (a) or (b); or

9 (2) a person who assists the voter to prepare a ballot  
10 to be voted by mail fails to comply with Subsection (e)[, the  
11 voter's ballot may not be counted].

12 SECTION 14. Section 86.013(b), Election Code, is amended to  
13 read as follows:

14 (b) Spaces must appear on the reverse side of the official  
15 carrier envelope for:

16 (1) indicating the identity and date of the election;  
17 ~~[and]~~

18 (2) entering the signature, printed name, and  
19 residence address of a person other than the voter who deposits the  
20 carrier envelope in the mail or with a common or contract carrier;

21 (3) entering the applicant's early voting by mail  
22 audit number;

23 (4) informing the applicant that failure to furnish  
24 the applicant's early voting by mail audit number invalidates the  
25 application; and

26 (5) providing the toll-free telephone number and  
27 Internet website established by the secretary of state under

1 Section 13.1411(e).

2 SECTION 15. Section 87.021, Election Code, is amended to  
3 read as follows:

4 Sec. 87.021. BALLOTS AND OTHER MATERIALS DELIVERED TO  
5 BOARD. The early voting clerk shall deliver to the early voting  
6 ballot board:

7 (1) in an election in which regular paper ballots are  
8 used for early voting by personal appearance, each ballot box, in  
9 accordance with Section 85.032(b), containing the early voting  
10 ballots voted by personal appearance and the clerk's key to each  
11 box;

12 (2) the jacket envelopes containing the early voting  
13 ballots voted by mail, regardless of the ballot type or voting  
14 system used;

15 (3) the poll lists prepared in connection with early  
16 voting by personal appearance;

17 (4) the list of registered voters used in conducting  
18 early voting;

19 (5) a list of early voting by mail audit numbers for  
20 those voters who requested an early voting by mail ballot; and

21 (6) [~~(5)~~] a ballot transmittal form that includes a  
22 statement of the number of early voting ballots voted by mail,  
23 regardless of the ballot type or voting system used, that are  
24 delivered to the early voting ballot board, and in an election in  
25 which regular paper ballots are used for early voting by personal  
26 appearance, the number of names appearing on the poll lists  
27 prepared in connection with early voting by personal appearance.

SECTION 16. Sections 87.027(h) and (i), Election Code, are amended to read as follows:

(h) If a signature verification committee is appointed for the election, the early voting clerk shall deliver the jacket envelopes containing the early voting ballots voted by mail and the list of early voting by mail audit numbers to the committee instead of to the early voting ballot board. Deliveries may be made only during the period of the committee's operation at times scheduled in advance of delivery by the early voting clerk. The clerk shall post notice of the time of each delivery. The notice must remain posted continuously for at least two days before the date of the delivery.

(i) The signature verification committee shall compare the signature on each carrier envelope certificate, except those signed for a voter by a witness, with the signature on the voter's ballot application to determine whether the signatures are those of the same person. The committee may also compare the signatures with the signature on the voter's registration application to confirm that the signatures are those of the same person or ~~[but may not use the registration application signature to]~~ determine that the signatures are not those of the same person. Except as provided by Subsection (l), a determination under this subsection that the signatures are not those of the same person must be made by a majority vote of the committee's membership. The committee shall place the jacket envelopes, carrier envelopes, and applications of voters whose signatures are not those of the same person in separate containers from those of voters whose signatures are those of the

1 same person. If a voter's ballot application or carrier envelope  
2 does not contain a correct early voting by mail audit number  
3 assigned to that voter, the jacket envelope, carrier envelope, and  
4 application for that voter shall be placed in a separate container.

5 The committee chair shall deliver the sorted materials to the early  
6 voting ballot board at the time specified by the board's presiding  
7 judge.

8 SECTION 17. Section 87.041, Election Code, is amended by  
9 amending Subsections (b), (e), and (f) and adding Subsection (g) to  
10 read as follows:

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

12 (1) the carrier envelope certificate is properly  
13 executed;

14 (2) the voter has placed the correct early voting by  
15 mail audit number on the ballot application and the carrier  
16 envelope and neither the voter's signature on the ballot  
17 application nor the signature on the carrier envelope certificate  
18 is determined to have been executed by a person other than the  
19 voter, unless signed by a witness;

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

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

24 (5) the address to which the ballot was mailed to the  
25 voter, as indicated by the application, was outside the voter's  
26 county of residence, if the ground for early voting is absence from  
27 the county of residence;

1           (6) for a voter to whom a statement of residence form  
2 was required to be sent under Section 86.002(a), the statement of  
3 residence is returned in the carrier envelope and indicates that  
4 the voter satisfies the residence requirements prescribed by  
5 Section 63.0011; and

6           (7) the address to which the ballot was mailed to the  
7 voter is an address that is otherwise required by Sections 84.002  
8 and 86.003.

9           (e) In making the determination under Subsection (b)(2),  
10 the board may also compare the signatures with the signature on the  
11 voter's registration application to confirm that the signatures are  
12 those of the same person or ~~[but may not use the registration~~  
13 ~~application signature to]~~ determine that the signatures are not  
14 those of the same person.

15           (f) In making the determination under Subsection (b)(2) for  
16 a ballot cast under Chapter 101 or 105, the board shall compare the  
17 signature on the carrier envelope or signature cover sheet with the  
18 signature of the voter on the federal postcard application. Early  
19 voting by mail audit numbers are not required for a ballot cast  
20 under Chapter 101 or 105 to be accepted and counted.

21           (g) A poll watcher accepted for service under Chapter 33 may  
22 challenge the acceptance of any early voting by mail ballot under  
23 this section by calling attention to an irregularity or a violation  
24 of law to a chair of the early voting ballot board, who shall  
25 resolve the challenge by majority vote of the early voting ballot  
26 board.

27           SECTION 18. This Act takes effect January 1, 2014.