

BILL ANALYSIS

C.S.H.B. 2815
By: Oliverson
Elections
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Interested parties cite reports of vote harvesting inside nursing homes and assisted living facilities in raising concerns about the participation of vulnerable populations in Texas elections. C.S.H.B. 2815 seeks to address these concerns by creating a process intended to facilitate early in-person voting for voters who reside at such residential care facilities.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is expressly granted to the secretary of state in SECTION 3 of this bill.

ANALYSIS

C.S.H.B. 2815 amends the Election Code to require a voter residing in a residential care facility who has applied to vote early by mail on the grounds of age or disability and who requested that the ballot be sent to the facility's address to vote as provided by the bill's provisions if five or more applications for ballots to be voted by mail were made by residents of the same facility who requested that the ballots be sent to the facility. The bill makes statutory provisions governing the conduct of early voting by personal appearance applicable to early voting at such a facility to the extent applicable and not in conflict with the bill's provisions. The bill defines "residential care facility" as a facility licensed and regulated under Health and Safety Code provisions regulating convalescent and nursing facilities and related institutions or the Assisted Living Facility Licensing Act.

C.S.H.B. 2815 requires the selection of additional election judges to serve at a residential care facility to be made in the same manner as the selection of election judges to serve at a polling place for early voting by personal appearance. The bill requires the county chair of a political party to indicate on the list of names of persons if a person is willing to serve as an election judge under the bill's provisions. The bill authorizes an election judge serving at a facility to be a volunteer, an employee of the authority conducting the election, or compensated by the authority conducting the election in the same manner as an election judge for a polling place for early voting by personal appearance. The bill prohibits a person from serving as an election judge for a facility if at any time during the two years preceding the election the person has been employed or retained at a facility in the county where the person seeks to serve as an election judge. The bill requires each individual appointed to serve as an election judge at a facility to sign and date a specified oath before beginning the duties of an election judge. The bill requires the secretary of state to provide training for an election judge serving at a residential care facility.

C.S.H.B. 2815 requires the administrator of a residential care facility to make available an area

located in a common area of the facility for the purposes of voting and requires such area to allow a voter to cast a secret ballot. The bill requires the facility administrator to allow posting of required notices during the period that voting is conducted and authorizes an election judge to enter the private room of a voter who requests that balloting materials be brought to the voter. The bill requires the early voting clerk to give notice that early voting will occur at a facility if early voting at the facility is required and to appoint election judges for the purpose of conducting voting. The bill sets out the manner in which the election judges are required to designate one or more times for voting to be conducted and to post notice of the time or times for conducting the election at the facility and on the appropriate county's website. The bill sets out provisions requiring the early voting clerk to maintain and make available a public list of all facilities in the clerk's jurisdiction at which early voting is conducted. The bill requires the secretary of state, with the assistance of the Department of State Health Services, to create a list of all residential care facilities in an early voting clerk's jurisdiction and requires the secretary of state to provide the list to the early voting clerk.

C.S.H.B. 2815 requires the early voting clerk in an election conducted under the bill's provisions to deliver to the election judges for a residential care facility the balloting materials for any qualified voters who have requested a mail ballot for an election that would have been otherwise mailed to such voters at the facility and requires the election judges for a facility to deliver the balloting materials to the voter at the facility. The bill requires the voter to mark and seal the ballot in the same manner as a voter voting by mail, sets out the manner in which the election judges are required to handle the ballots, and requires the ballots to be processed for counting in the manner provided for a ballot voted by mail.

C.S.H.B. 2815 requires the early voting clerk to produce a list of all additional qualified voters who reside at a residential care facility where voting is conducted and to supply the election judges for the facility with sufficient additional ballots and voting materials to allow any additional qualified voter who resides at the facility to vote. The bill authorizes any registered voter who resides at the facility to complete during the voting period an application to request a mail ballot as if the person were voting by mail, requires an election judge for the facility to serve as a witness for any person who is unable to sign the person's name, and authorizes such a judge to witness multiple applications. The bill requires an election judge for the facility to accept such a properly completed application for a ballot, to provide a ballot to the voter, and to make a notation on such an application that it was made in this manner. The bill requires a voter who so applies for a ballot to vote in the manner provided by the bill's provisions governing the conduct of an election at a facility but requires such a voter's ballot to be stored with the voter's application and prohibits the voter's ballot from being counted if the voter was not a qualified voter for the election as demonstrated from the information contained in the voter's application. The bill sets out the manner in which the election judges for the facility are required to retain voting records and the manner by which a voter voting at a facility may establish proof of identification through the submission of a statement.

C.S.H.B. 2815 authorizes the early voting clerk on written request by a relative of a registered voter in a residential care facility to notify the relative of the time or times at which election judges will conduct voting at the facility and authorizes the relative to be present at the facility while voting is conducted. The bill authorizes a voter to receive assistance in the same manner as provided by state law and requires an election judge to seal a ballot if the voter receives assistance from a person who is not an election judge. The bill provides for the security of ballots and election materials on completion of the voting each day at a facility and for the delivery of such ballots to the early voting clerk. The bill requires the election judges for a facility to inform the early voting clerk if a qualified voter residing at the facility and seeking to vote early at the facility is not able to cast a ballot during any time when voting is conducted at the facility and requires the clerk to mail the ballot to such a voter not later than the fourth day before election day. The bill sets out provisions relating to the observation of such an election at a facility by election watchers appointed in a manner consistent with state law. The bill establishes that the early voting clerk is not required to send election judges to conduct an election at a facility unless there are at least five registered voters who are residents of the facility and that the bill's

provisions do not prevent a registered voter from voting early by personal appearance, from voting on election day, or from voting by mail from an address other than the facility. The bill authorizes the secretary of state to adopt rules and prescribe procedures for voting at a residential care facility in accordance with the bill's provisions.

C.S.H.B. 2815 requires an application to vote early by mail on the grounds of age or disability requesting that the ballot be sent to the address of a residential care facility to be held until the earlier of the date on which five or more applications for ballots to be voted by mail made by residents of the same facility who request that the ballots be sent to that facility have been received, in which case the bill prohibits the mailing of ballots to the voters and requires voting to be conducted at the facility under the bill's provisions, or the last day on which an application for a ballot to be voted by mail may be received, after which the bill requires the ballot to be promptly mailed to the voter.

C.S.H.B. 2815 amends the Health and Safety Code to require an institution licensed under statutory provisions regulating convalescent or nursing facilities and related institutions and a licensed assisted living facility to comply with the bill's provisions relating to early voting at a residential care facility.

EFFECTIVE DATE

September 1, 2017.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 2815 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and formatted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

INTRODUCED	HOUSE COMMITTEE SUBSTITUTE
SECTION 1. Section 86.003, Election Code, is amended.	SECTION 1. Same as introduced version.
SECTION 2. Section 86.004, Election Code, is amended.	SECTION 2. Same as introduced version.
SECTION 3. Subtitle B, Title 7, Election Code, is amended by adding Chapter 107 to read as follows: <u>CHAPTER 107. EARLY VOTING AT A RESIDENTIAL CARE FACILITY</u> <u>Sec. 107.001. PURPOSE.</u> <u>Sec. 107.002. DEFINITION. In this chapter, "residential care facility" means a facility licensed and regulated under Chapter 241, 242, 246, 247, or 248, Health and Safety Code, or Chapter 105, Human Resources Code.</u>	SECTION 3. Subtitle B, Title 7, Election Code, is amended by adding Chapter 107 to read as follows: <u>CHAPTER 107. EARLY VOTING AT A RESIDENTIAL CARE FACILITY</u> <u>Sec. 107.001. PURPOSE.</u> <u>Sec. 107.002. DEFINITION. In this chapter, "residential care facility" means a facility licensed and regulated under Chapter 242 or 247, Health and Safety Code.</u>
<u>Sec. 107.003. APPLICABILITY OF EARLY VOTING BY PERSONAL APPEARANCE PROVISIONS.</u>	<u>Sec. 107.003. APPLICABILITY OF EARLY VOTING BY PERSONAL APPEARANCE PROVISIONS.</u>
<u>Sec. 107.004. EARLY VOTING AT RESIDENTIAL CARE FACILITY</u>	<u>Sec. 107.004. EARLY VOTING AT RESIDENTIAL CARE FACILITY</u>

REQUIRED.

Sec. 107.005. ELECTION JUDGES; QUALIFICATIONS; OATH. (a) Election judges shall be selected to serve at a residential care facility in the same manner as election judges are selected to serve at a polling place for early voting by personal appearance.

(b) An election judge serving at a residential care facility may be a volunteer, an employee of the authority conducting the election, or compensated by the authority conducting the election in the same manner as an election judge for a polling place for early voting by personal appearance.

(c) A person may not serve as an election judge for a residential care facility if:

(1) at any time during the two years preceding the election, the person has been employed or retained at a residential care facility in the county where the person seeks to serve as an election judge; or

(2) the person is related to a person within the second degree by affinity or within the third degree by consanguinity, as determined under Chapter 573, Government Code, who resides in a residential care facility and is a registered voter.

(d) Before beginning the duties of an election judge under this chapter, each individual appointed to serve as an election judge at a residential care facility shall sign and date this oath:

I swear (or affirm) that I will not in any manner request or seek to persuade or induce any voter to vote for or against any candidate or measure to be voted on, and that I will faithfully perform my duty as an officer of the election and guard the purity of the election.

I have read the statutes and training materials provided and will conduct this election accordingly.

I understand that failing to follow procedures exactly may result in invalidation of the voter's ballot.

I will not unduly influence or pressure a person to participate or cast a ballot in the election.

I will not influence the choice of a voter to choose a particular primary ballot, vote in a

REQUIRED.

Sec. 107.005. ELECTION JUDGES; QUALIFICATIONS; OATH. (a) Additional election judges shall be selected to serve at a residential care facility in the same manner as election judges are selected to serve at a polling place for early voting by personal appearance under Chapter 32. The county chair of a political party shall indicate on the list of names of persons if a person is willing to serve as an election judge under this chapter.

(b) An election judge serving at a residential care facility may be a volunteer, an employee of the authority conducting the election, or compensated by the authority conducting the election in the same manner as an election judge for a polling place for early voting by personal appearance.

(c) A person may not serve as an election judge for a residential care facility if

at any time during the two years preceding the election, the person has been employed or retained at a residential care facility in the county where the person seeks to serve as an election judge.

(d) Before beginning the duties of an election judge under this chapter, each individual appointed to serve as an election judge at a residential care facility shall sign and date this oath:

I swear (or affirm) that I will not in any manner request or seek to persuade or induce any voter to vote for or against any candidate or measure to be voted on, and that I will faithfully perform my duty as an officer of the election and guard the purity of the election.

I have read the statutes and training materials provided and will conduct this election accordingly.

I understand that failing to follow procedures exactly may result in invalidation of the voter's ballot.

I will not unduly influence or pressure a person to participate or cast a ballot in the election.

I will not influence the choice of a voter to choose a particular primary ballot, vote in a

particular race or election, or vote on a particular proposition.
Signed this ____ day of _____, 20__.
Date: _____

Sec. 107.006. VOTING LOCATION.

Sec. 107.007. NOTICE OF ELECTION IN RESIDENTIAL CARE FACILITY; DETERMINATION OF TIME FOR VOTING. (a) If early voting at a residential care facility is required under this chapter, the early voting clerk shall give notice that early voting will occur at the facility and appoint election judges for the purpose of conducting voting under this chapter.

(b) Not later than 5 p.m. on the sixth business day before election day, the election judges shall, with the input of the administrator of the residential care facility, designate one or more times for voting to be conducted. Voting may be conducted not earlier than the fourth Monday before election day and not later than the Monday preceding election day.

(c) An election judge for a residential care facility shall post notice of the time or times for conducting the election at the facility

as soon as practicable after determining the time and not later than the fifth day before the first day on which voting will be conducted at the facility.

(d) The early voting clerk shall maintain a public list of all residential care facilities in the clerk's jurisdiction at which voting is conducted under this chapter. The list must be available on the website of the authority conducting the election or posted at the location where public notices are posted in the county courthouse or authority public building, as applicable, and for each facility state:

- (1) the name of the facility;
- (2) the address of the facility;
- (3) the dates and times for voting at the facility; and

particular race or election, or vote on a particular proposition.
Signed: _____
This ____ day of _____, 20__.

(e) The secretary of state shall provide training for an election judge serving under this chapter.

Sec. 107.006. VOTING LOCATION.

Sec. 107.007. NOTICE OF ELECTION IN RESIDENTIAL CARE FACILITY; DETERMINATION OF TIME FOR VOTING. (a) If early voting at a residential care facility is required under this chapter, the early voting clerk shall give notice that early voting will occur at the facility and appoint election judges for the purpose of conducting voting under this chapter.

(b) Not later than 5 p.m. on the sixth business day before election day, the election judges shall, with the input of the administrator of the residential care facility, designate one or more times for voting to be conducted. Voting may be conducted not earlier than the 29th day before election day and not later than the fourth day preceding election day.

(c) Notice of the time or times for conducting the election shall be posted at the residential care facility by the election judge and on the appropriate county's website as soon as practicable after determining the time and not later than the fifth day before the first day on which voting will be conducted at the facility.

(d) The secretary of state with the assistance of the Department of State Health Services shall create a list of all residential care facilities in an early voting clerk's jurisdiction. The secretary of state shall provide the list to the early voting clerk.

(e) The early voting clerk shall maintain a public list of all residential care facilities in the clerk's jurisdiction at which voting is conducted under this chapter. The list must be available on the website of the authority conducting the election or posted at the location where public notices are posted in the county courthouse or authority public building, as applicable, and for each facility state:

- (1) the name of the facility;
- (2) the address of the facility;
- (3) the dates and times for voting at the facility; and

(4) the names of the election judges for the facility.

Sec. 107.008. CONDUCT OF ELECTION.

Sec. 107.009. VOTING BY ADDITIONAL QUALIFIED VOTERS.

Sec. 107.010. RETENTION OF RECORDS.

Sec. 107.011. PROOF OF IDENTIFICATION PRESENTED AT RESIDENTIAL CARE FACILITY.

Sec. 107.012. ASSISTING VOTER; NOTICE. (a) On written request to the early voting clerk by a relative of a registered voter in a residential care facility, the clerk may notify the relative of the time or times at which election judges will conduct voting at the facility. The relative may be present at the facility while voting is conducted.

(b) On request of the voter, the following persons may assist a voter in marking the voter's ballot:

(1) an election judge; or

(2) a person selected by the voter who is present for voting conducted at the residential care facility.

(c) An election judge shall seal a ballot if the voter receives assistance from a person who is not an election judge.

Sec. 107.013. SECURITY OF BALLOTS AND MATERIALS.

Sec. 107.014. PROVISION OF MAIL BALLOT TO CERTAIN VOTERS.

Sec. 107.015. WATCHERS.

Sec. 107.016. LIMITATIONS ON APPLICABILITY OF CHAPTER.

Sec. 107.017. RULES. The secretary of state shall adopt rules and prescribe procedures for voting at a residential care facility in accordance with this chapter.

SECTION 4. Subchapter A, Chapter 241, Health and Safety Code, is amended by adding Section 241.0071 to read as follows:

Sec. 241.0071. COMPLIANCE WITH CERTAIN REQUIREMENTS

(4) the names of the election judges for the facility.

Sec. 107.008. CONDUCT OF ELECTION.

Sec. 107.009. VOTING BY ADDITIONAL QUALIFIED VOTERS.

Sec. 107.010. RETENTION OF RECORDS.

Sec. 107.011. PROOF OF IDENTIFICATION PRESENTED AT RESIDENTIAL CARE FACILITY.

Sec. 107.012. ASSISTING VOTER; NOTICE. (a) On written request to the early voting clerk by a relative of a registered voter in a residential care facility, the clerk may notify the relative of the time or times at which election judges will conduct voting at the facility. The relative may be present at the facility while voting is conducted.

(b) A voter may receive assistance in the same manner as provided by Subchapter B, Chapter 64.

(c) An election judge shall seal a ballot if the voter receives assistance from a person who is not an election judge.

Sec. 107.013. SECURITY OF BALLOTS AND MATERIALS.

Sec. 107.014. PROVISION OF MAIL BALLOT TO CERTAIN VOTERS.

Sec. 107.015. WATCHERS.

Sec. 107.016. LIMITATIONS ON APPLICABILITY OF CHAPTER.

Sec. 107.017. RULES. The secretary of state may adopt rules and prescribe procedures for voting at a residential care facility in accordance with this chapter.

No equivalent provision.

REGARDING EARLY VOTING. A hospital must comply with Chapter 107, Election Code.

SECTION 5. Subchapter A, Chapter 242, Health and Safety Code, is amended.

SECTION 6. Subchapter A, Chapter 246, Health and Safety Code, is amended by adding Section 246.0041 to read as follows:
Sec. 246.0041. COMPLIANCE WITH CERTAIN REQUIREMENTS REGARDING EARLY VOTING. A facility must comply with Chapter 107, Election Code.

SECTION 7. Subchapter A, Chapter 247, Health and Safety Code, is amended.

SECTION 8. Subchapter A, Chapter 248, Health and Safety Code, is amended by adding Section 248.004 to read as follows:
Sec. 248.004. COMPLIANCE WITH CERTAIN REQUIREMENTS REGARDING EARLY VOTING. A special care facility must comply with Chapter 107, Election Code.

SECTION 9. Chapter 105, Human Resources Code, is amended by adding Section 105.004 to read as follows:
Sec. 105.004. COMPLIANCE WITH CERTAIN REQUIREMENTS REGARDING EARLY VOTING. An establishment must comply with Chapter 107, Election Code.

SECTION 10. Sections 241.0071, 242.0181, 247.008, and 248.004, Health and Safety Code, as added by this Act, apply only to a license issued or renewed on or after the effective date of this Act. A license issued or renewed before that date is governed by the law in effect on the date the license was issued or renewed, and the former law is continued in effect for that purpose.

SECTION 11. This Act takes effect September 1, 2017.

SECTION 4. Same as introduced version.

No equivalent provision.

SECTION 5. Same as introduced version.

No equivalent provision.

No equivalent provision.

SECTION 6. Sections 242.0181 and 247.008, Health and Safety Code, as added by this Act, apply only to a license issued or renewed on or after the effective date of this Act. A license issued or renewed before that date is governed by the law in effect on the date the license was issued or renewed, and the former law is continued in effect for that purpose.

SECTION 7. Same as introduced version.