

By: Bonnen of Galveston, Oliverson, Reynolds,
et al.

H.B. No. 2691

A BILL TO BE ENTITLED

AN ACT

relating to certain election practices and procedures.

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

SECTION 1. Section 32.002, Election Code, is amended by adding Subsection (c-1) to read as follows:

(c-1) For purposes of this subsection, the county chair shall provide a list of names of persons eligible for appointment as election judges. Judges of countywide polling places established under Section 43.007 must be appointed from the list of names of persons submitted by the county chair in compliance with Subsection (c) except that in appointing a person from the list the commissioners court shall apportion the number of judges in direct proportion to the percentage of precincts located in each county commissioner's precinct won by each party in the last gubernatorial election, the commissioners court is not required to make the appointments based on specific polling locations or precincts, a presiding judge or alternate presiding judge is not required to serve in a polling place located in the precinct in which the judge resides, and more than one presiding judge or alternate presiding judge may be selected from the same precinct to serve in polling places not located in the precinct in which the judges reside. The county chairs may submit, and the commissioners court may preapprove, the appointment of more presiding judges or alternate presiding judges than necessary to fill available positions. The

1 county clerk may select an individual whose appointment was
2 preapproved by the commissioners court to fill a vacancy in a
3 position that was held by an individual from the same political
4 party. Other than a judge's party affiliation, nothing in this
5 subsection precludes a county clerk from placing an election
6 officer at a countywide polling place based on the need for services
7 at that location.

8 SECTION 2. Section 32.006(a), Election Code, is amended to
9 read as follows:

10 (a) The county chair of a political party holding a primary
11 election shall appoint for each primary [~~with the approval of the~~
12 ~~county executive committee,~~] the judges for each precinct in which
13 the election will be held in the county and fill any vacancy that
14 occurs in the position of presiding judge or alternate presiding
15 judge.

16 SECTION 3. Section 32.009(d), Election Code, is amended to
17 read as follows:

18 (d) A notice to a presiding judge must state the name, ~~and~~
19 address, and any available telephone number and e-mail address of
20 the alternate, and a notice to an alternate must state the name,
21 ~~and~~ address, and any available telephone number and e-mail
22 address of the presiding judge.

23 SECTION 4. Subchapter A, Chapter 32, Election Code, is
24 amended by adding Section 32.012 to read as follows:

25 Sec. 32.012. PROVISION OF INFORMATION RELATING TO ELECTION
26 JUDGES APPOINTED BY COMMISSIONERS COURT. (a) After the
27 commissioners court appoints a presiding election judge and an

1 alternate presiding judge, the county clerk shall provide to the
2 county chair of each political party a list of the individuals
3 appointed by the commissioners court.

4 (b) The appointment list must be provided in writing.

5 SECTION 5. Subchapter A, Chapter 32, Election Code, is
6 amended by adding Section 32.013 to read as follows:

7 Sec. 32.013. ELECTION JUDGES FOR EARLY VOTING AT
8 RESIDENTIAL CARE FACILITY; QUALIFICATIONS; OATH. (a) Additional
9 election judges shall be selected to serve at a residential care
10 facility under Chapter 107 in the same manner as election judges are
11 selected to serve at a polling place for early voting by personal
12 appearance under this chapter. The county chair of a political
13 party shall indicate on the list of names of persons if a person is
14 willing to serve as an election judge under Chapter 107.

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

20 (c) A person may not serve as an election judge for a
21 residential care facility if at any time during the two years
22 preceding the election, the person has been employed at a
23 residential care facility in the county where the person seeks to
24 serve as an election judge.

25 (d) Before beginning the duties of an election judge under
26 Chapter 107, each individual appointed to serve as an election
27 judge at a residential care facility shall sign and date this oath:

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

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

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

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

12 I will not influence the choice of a voter to choose a
13 particular primary ballot, vote in a particular race or election,
14 or vote on a particular proposition.

15 Signed: _____

16 This ___ day of ____, 20__.

17 (e) The secretary of state shall provide training for an
18 election judge serving under Chapter 107.

19 SECTION 6. Section 32.114(e), Election Code, is amended to
20 read as follows:

21 (e) An election judge, early voting clerk, or deputy early
22 voting clerk in charge of an early voting polling place is entitled
23 to compensation for attending the training program at an hourly
24 rate fixed by the appropriate authority in an amount that is equal
25 to or greater than the federal minimum wage [~~not to exceed \$7~~].

26 SECTION 7. Section 43.007, Election Code, is amended by
27 amending Subsections (a), (c), and (d) and adding Subsections (m)

1 and (n) to read as follows:

2 (a) The secretary of state shall implement a program to
3 allow each commissioners court participating in the program to
4 eliminate county election precinct polling places and establish
5 countywide polling places for:

6 (1) each general election for state and county
7 officers;

8 (2) each election held on the uniform election date in
9 May and any resulting runoff;

10 (3) each election on a proposed constitutional
11 amendment;

12 (4) each primary election and runoff primary election
13 if:

14 (A) the county chair or county executive
15 committee of each political party participating in a joint primary
16 election under Section [172.126](#) agrees to the use of countywide
17 polling places; or

18 (B) the county chair or county executive
19 committee of each political party required to nominate candidates
20 by primary election agrees to use the same countywide polling
21 places; and

22 (5) each election of a political subdivision located
23 in the county that is held jointly with an election described by
24 Subdivision (1), (2), (3), or (4).

25 (c) In conducting the program, the secretary of state shall
26 provide a training manual for election judges and clerks appointed
27 to work at a countywide polling place and for an audit of the voting

1 system [~~direct recording electronic voting~~] units used, including
2 any type of voting system unit described by Subsection (d)(4),
3 before and after the election, and during the election to the extent
4 such an audit is practicable.

5 (d) The secretary of state shall select to participate in
6 the program each county that:

7 (1) has held a public hearing under Subsection (b);

8 (2) has submitted documentation listing the steps
9 taken to solicit input on participating in the program by
10 organizations or persons who represent the interests of voters;

11 (3) has implemented a computerized voter registration
12 list that allows an election officer at the polling place to verify
13 that a voter has not previously voted in the election;

14 (4) uses either direct recording electronic voting
15 machines or a voting system capable of printing all available
16 ballot styles of that polling place; and

17 (5) is determined by the secretary of state to have the
18 appropriate technological capabilities.

19 (m) In adopting a methodology under Subsection (f), the
20 county must ensure that:

21 (1) each county commissioner's precinct contains at
22 least one countywide polling place; and

23 (2) the total number of permanent branch and temporary
24 branch polling places open for voting in a county commissioner's
25 precinct does not exceed more than twice the number of permanent
26 branch and temporary branch polling places in another county
27 commissioner's precinct.

1 (n) To the greatest extent possible, countywide polling
2 places shall be located in a precinct where the political party that
3 received the greatest number of votes in the last gubernatorial
4 election is the same political party with which the presiding judge
5 is affiliated.

6 SECTION 8. Section 85.009(b), Election Code, is amended to
7 read as follows:

8 (b) Before July of each year, the county chair of each
9 political party holding a primary election in the county shall
10 submit in writing to the county clerk a list of names of persons in
11 order of preference for each early voting polling place who are
12 eligible for selection as an election officer. The county chair
13 may supplement the list of names of persons until the 30th day
14 before early voting begins in case an appointed election officer
15 becomes unable to serve. The county clerk shall appoint the first
16 person meeting the applicable eligibility requirements from the
17 list submitted in compliance with this subsection by the party with
18 the highest number of votes in the county as the presiding judge
19 [~~election officer~~] of that polling place and the first person
20 meeting the applicable eligibility requirements from the list
21 submitted in compliance with this subsection by the party with the
22 second highest number of votes in the county as the alternate
23 presiding judge [~~election officer~~] of that polling place. The
24 county clerk shall appoint additional election officers for each
25 polling place in the manner described by Subsection (a). The
26 county clerk may reject the list if the persons whose names are
27 submitted on the list are determined not to meet the applicable

1 eligibility requirements.

2 SECTION 9. Subchapter A, Chapter 85, Election Code, is
3 amended by adding Section 85.0091 to read as follows:

4 Sec. 85.0091. EARLY VOTING ELECTION OFFICERS FOR PRIMARY
5 ELECTIONS. (a) The early voting clerk shall select election
6 officers for a primary election for the main early voting polling
7 place and any branch polling place in a manner consistent with
8 Section 85.009, except that the early voting clerk shall prescribe
9 the deadline by which county chairs must submit names of persons
10 eligible to serve as election officers during early voting.

11 (b) This section does not apply to a joint primary governed
12 by Section 172.126.

13 SECTION 10. Section 86.003, Election Code, is amended by
14 amending Subsections (a) and (b) and adding Subsection (e) to read
15 as follows:

16 (a) The balloting materials for voting by mail shall be
17 provided to the voter by mail, unless the ballot is delivered to a
18 voter for early voting under Chapter 107. A ballot provided by any
19 other method may not be counted.

20 (b) Subject to Subsection (c), the balloting materials
21 shall be addressed to the applicable address specified in the
22 voter's application. The election officer providing the ballot may
23 not knowingly deliver ~~mail~~ the materials to an address other than
24 that prescribed by this section.

25 (e) A voter who makes an application to vote early by mail on
26 the grounds of age or disability requesting that the ballot be sent
27 to the address of a residential care facility, as defined by Chapter

1 107, is required to vote as provided by that chapter if five or more
2 applications for ballots to be voted by mail are made by residents
3 of the same facility who request that the ballots be sent to that
4 facility.

5 SECTION 11. Section 86.004, Election Code, is amended by
6 amending Subsection (a) and adding Subsection (c) to read as
7 follows:

8 (a) Except as provided by Subsection (b) or (c), the
9 balloting materials for voting by mail shall be mailed to a voter
10 entitled to vote by mail not later than the seventh calendar day
11 after the later of the date the clerk accepts the voter's
12 application for a ballot to be voted by mail or the date the ballots
13 become available for mailing, except that if that mailing date is
14 earlier than the 45th day before election day, the balloting
15 materials shall be mailed not later than the 38th day before
16 election day.

17 (c) An application to vote early by mail on the grounds of
18 age or disability requesting that the ballot be sent to the address
19 of a residential care facility, as defined by Chapter 107, shall be
20 held until the earlier of:

21 (1) the date on which five or more applications for
22 ballots to be voted by mail made by residents of the same facility
23 who request that the ballots be sent to that facility have been
24 received, in which case ballots may not be mailed to the voters and
25 voting shall be conducted under Chapter 107; or

26 (2) the last day on which an application for a ballot
27 to be voted by mail may be received, after which the ballot shall

1 promptly be mailed to the voter.

2 SECTION 12. Subtitle B, Title 7, Election Code, is amended
3 by adding Chapter 107 to read as follows:

4 CHAPTER 107. EARLY VOTING AT A RESIDENTIAL CARE FACILITY

5 Sec. 107.001. PURPOSE. This chapter is enacted to
6 facilitate voting in a nursing home, other long-term care facility,
7 or retirement center in which a significant number of occupants,
8 patients, or residents lack adequate transportation to an
9 appropriate polling place, need assistance in voting, are 65 years
10 of age or older or are disabled, or are indefinitely confined.

11 Sec. 107.002. DEFINITION. In this chapter, "residential
12 care facility" means a facility licensed and regulated under
13 Chapter 242 or 247, Health and Safety Code, with more than 10 beds.

14 Sec. 107.003. APPLICABILITY OF EARLY VOTING BY PERSONAL
15 APPEARANCE PROVISIONS. To the extent applicable and not in
16 conflict with this chapter, Chapter 85 applies to voting at a
17 residential care facility under this chapter.

18 Sec. 107.004. EARLY VOTING AT RESIDENTIAL CARE FACILITY
19 REQUIRED. (a) A voter residing in a residential care facility who
20 has applied to vote early by mail on the grounds of age or
21 disability and who requested that the ballot be sent to the address
22 of the facility must vote as provided by this chapter if five or
23 more applications for ballots to be voted by mail were made by
24 residents of the same facility who requested that the ballots be
25 sent to the facility.

26 (b) If a residential care facility has fewer than five
27 residents qualified to vote under this chapter on January 1 of each

1 calendar year, the secretary of state may exempt a residential care
2 facility from the requirements of this chapter. For this exemption
3 to apply, the Department of State Health Services and the facility
4 director must provide written confirmation that the exemption
5 applies to the residential care facility. The secretary of state
6 shall adopt rules to implement this subsection.

7 Sec. 107.005. VOTING LOCATION. (a) The administrator of
8 the residential care facility shall make available an area located
9 in a common area of the facility for the purposes of voting under
10 this chapter. The area shall allow a voter to cast a secret ballot.

11 (b) The facility administrator shall allow posting of
12 required notices during the period that voting is conducted under
13 this chapter.

14 (c) An election judge may enter the private room of a voter
15 who requests that balloting materials be brought to the voter.

16 Sec. 107.006. NOTICE OF ELECTION IN RESIDENTIAL CARE
17 FACILITY; DETERMINATION OF TIME FOR VOTING. (a) If early voting at
18 a residential care facility is required under this chapter, the
19 early voting clerk shall give notice that early voting will occur at
20 the facility and appoint election judges for the purpose of
21 conducting voting under this chapter.

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

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

7 (d) The secretary of state with the assistance of the
8 Department of State Health Services shall create a list of all
9 residential care facilities eligible under this chapter on January
10 1 of each calendar year in an early voting clerk's jurisdiction.
11 The secretary of state shall provide the list to the early voting
12 clerk.

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

- 20 (1) the name of the facility;
21 (2) the address of the facility;
22 (3) the dates and times for voting at the facility; and
23 (4) the names of the election judges for the facility.

24 (f) At any time during the year and regardless of whether
25 five or more voters at a residential care facility have requested
26 ballots to be voted by mail, the early voting clerk may post notice
27 of the dates on which voting will be conducted at the facility under

1 this chapter for each election. If the early voting clerk posts
2 notice under this subsection, the names of the election judges and
3 the hours during which voting will be conducted must be posted at
4 least 48 hours before voting is conducted at the facility,
5 notwithstanding Subsection (c).

6 Sec. 107.007. CONDUCT OF ELECTION. (a) In an election
7 conducted under this chapter, the early voting clerk shall deliver
8 to the election judges for a residential care facility the
9 balloting materials for any qualified voters who have requested a
10 mail ballot for an election that would have been otherwise mailed to
11 the voter at the facility under Chapter 86.

12 (b) The election judges for a residential care facility
13 shall deliver the balloting materials to the voter at the facility.

14 (c) The voter shall mark and seal the ballot in the same
15 manner as a voter voting under Chapter 86.

16 (d) Both election judges for the residential care facility
17 shall sign the carrier envelope as witnesses. In the space for the
18 address of the witness, each election judge shall write in
19 "Residential Care Facility Election Judge."

20 (e) The election judges shall accept the carrier envelope
21 and place the envelope in a secure bag or ballot container for
22 transport to the early voting clerk's office.

23 (f) Ballots voted at a residential care facility shall be
24 processed for counting in the manner provided by Chapter 86 for a
25 ballot voted by mail.

26 Sec. 107.008. VOTING BY ADDITIONAL QUALIFIED VOTERS. (a)
27 The early voting clerk shall produce a list of all additional

1 qualified voters who reside at a residential care facility where
2 voting is conducted under this chapter.

3 (b) The clerk shall supply the election judges for the
4 residential care facility with sufficient additional ballots and
5 voting materials to allow any additional qualified voter who
6 resides at the facility to vote under this chapter. During the
7 voting period, any registered voter who resides at the facility may
8 complete an application to request a mail ballot as if they were
9 voting by mail. An election judge for the facility shall serve as a
10 witness for any person who is unable to sign the person's name and
11 may witness multiple applications.

12 (c) An election judge for the residential care facility must
13 accept a properly completed application for a ballot made under
14 this section, and shall provide a ballot to the voter. The election
15 judge shall make a notation on an application that it was made under
16 this section.

17 (d) A voter who applies for a ballot under this section
18 shall vote in the manner provided by Section 107.007, except that
19 the voter's ballot must be stored with the voter's application, and
20 the voter's ballot may not be counted if the voter was not a
21 qualified voter for the election as demonstrated from the
22 information contained in the voter's application.

23 Sec. 107.009. RETENTION OF RECORDS. (a) The election
24 judges for the residential care facility shall record the number of
25 ballots voted. Both of the election judges for each facility and
26 the early voting clerk shall sign and attest to the number of
27 ballots issued.

1 (b) On completion of voting under this chapter, the election
2 judges must record the number of:

3 (1) completed ballots;

4 (2) spoiled ballots; and

5 (3) unused returned ballots.

6 Sec. 107.010. PROOF OF IDENTIFICATION PRESENTED AT
7 RESIDENTIAL CARE FACILITY. (a) Notwithstanding Section 63.0101 or
8 any other law, a voter voting under this chapter may submit a
9 statement as proof of identification signed by both election judges
10 for the residential care facility that:

11 (1) contains the name and address of the voter; and

12 (2) verifies that the voter is a resident of the
13 facility and appears on the list of registered voters.

14 (b) The election judges shall enclose the statement in the
15 carrier envelope.

16 Sec. 107.011. ASSISTING VOTER; NOTICE. (a) On written
17 request to the early voting clerk by a relative of a registered
18 voter in a residential care facility, the clerk may notify the
19 relative of the time or times at which election judges will conduct
20 voting at the facility. The relative may be present at the facility
21 while voting is conducted.

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

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

26 Sec. 107.012. SECURITY OF BALLOTS AND MATERIALS. (a) On
27 completion of the voting each day on which voting is conducted at a

1 residential care facility under this chapter, the election judges
2 for the facility shall seal the ballot envelopes and any absentee
3 ballot applications inside a secure envelope and shall seal the
4 envelope and sign the seal. The election judges shall place the
5 envelope inside a ballot bag or container.

6 (b) As soon as possible after conducting voting at a
7 residential care facility, but not later than 18 hours after
8 leaving the facility, the election judges shall deliver the ballot
9 bag or container to the early voting clerk.

10 Sec. 107.013. PROVISION OF MAIL BALLOT TO CERTAIN VOTERS.

11 (a) If a qualified voter residing at a residential care facility
12 and seeking to vote at the facility under this chapter is not able
13 to cast a ballot during any time when voting is conducted at the
14 facility, the election judges for the facility shall inform the
15 early voting clerk not later than the fourth day before election
16 day. The clerk shall mail the ballot to the voter not later than the
17 fourth day before election day.

18 (b) Any registered voter who did not cast a ballot at the
19 residential care facility may cast a ballot by:

20 (1) voting in person on election day; or

21 (2) voting by mail.

22 (c) An election judge shall leave a ballot package for a
23 voter who:

24 (1) requested a ballot to be voted by mail and was not
25 present during the scheduled time for early voting at the
26 residential care facility; and

27 (2) is expected to return to the residential care

1 facility before the deadline for returning a ballot by mail.

2 (d) If a voter who requested a ballot to be voted by mail
3 under this chapter is temporarily located at another location,
4 including by hospitalization:

5 (1) the early voting clerk may mail the ballot to the
6 voter's temporary address, if known; or

7 (2) the early voting judge may personally deliver the
8 ballot package to the voter's temporary address, if known.

9 (e) If an election judge personally delivers a ballot
10 package under Subsection (d), the election judge may:

11 (1) allow the ballot to be returned by mail; or

12 (2) accept the marked ballot personally.

13 Sec. 107.014. WATCHERS. (a) In an election held under this
14 chapter, a watcher may observe the process of ballot distribution
15 in the common areas of a residential care facility in a manner
16 consistent with Chapter 33.

17 (b) A political party entitled to have the names of its
18 nominees placed on the general election ballot may appoint a
19 watcher to accompany the election judges to a residential care
20 facility.

21 (c) A political party seeking to appoint a watcher to serve
22 at a residential care facility shall submit the name of the watcher
23 to the county election officer of the county in which the facility
24 is located not later than the close of business on the last business
25 day before the date the watcher seeks to observe the conduct of the
26 election under this chapter.

27 (d) A watcher must present the watcher's certificate of

1 appointment to an election judge for the residential care facility
2 on arrival at the facility.

3 (e) A watcher has access to the same areas of the
4 residential care facility as an election judge.

5 Sec. 107.015. LIMITATIONS ON APPLICABILITY OF CHAPTER. (a)
6 The early voting clerk is not required to send election judges to
7 conduct an election at a residential care facility unless there are
8 at least five registered voters who are residents of the facility.

9 (b) This chapter does not prevent a registered voter from:

10 (1) voting early by personal appearance;

11 (2) voting on election day; or

12 (3) voting by mail from an address other than the
13 residential care facility, including from the address of a family
14 member designated under Section 84.002.

15 Sec. 107.016. RULES. The secretary of state may adopt rules
16 and prescribe procedures for voting at a residential care facility
17 in accordance with this chapter.

18 SECTION 13. Subchapter A, Chapter 242, Health and Safety
19 Code, is amended by adding Section 242.0181 to read as follows:

20 Sec. 242.0181. COMPLIANCE WITH CERTAIN REQUIREMENTS
21 REGARDING EARLY VOTING. An institution must comply with Chapter
22 107, Election Code.

23 SECTION 14. Subchapter A, Chapter 247, Health and Safety
24 Code, is amended by adding Section 247.008 to read as follows:

25 Sec. 247.008. COMPLIANCE WITH CERTAIN REQUIREMENTS
26 REGARDING EARLY VOTING. An assisted living facility must comply
27 with Chapter 107, Election Code.

1 SECTION 15. Sections 32.006(b), 32.010, and 43.007(i),
2 Election Code, are repealed.

3 SECTION 16. Sections 242.0181 and 247.008, Health and
4 Safety Code, as added by this Act, apply only to a license issued or
5 renewed on or after the effective date of this Act. A license
6 issued or renewed before that date is governed by the law in effect
7 on the date the license was issued or renewed, and the former law is
8 continued in effect for that purpose.

9 SECTION 17. This Act takes effect September 1, 2017.