

By: Schofield

H.B. No. 3464

A BILL TO BE ENTITLED

AN ACT

relating to early in-person voting by voters who reside at a residential care facility.

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

SECTION 1. 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 on the ground of absence from the county of residence, the address outside the applicant's county of residence to which the ballot is to be mailed;

(3) for an application for a ballot to be voted by mail on the ground of age or disability, the address of:

(A) the hospital, nursing home or other long-term care facility, or retirement center, if the applicant is living at that address and that address is different from the address at which the applicant is registered to vote; or

(B) ~~of~~ a person related to the applicant within the second degree by affinity or the third degree by consanguinity, as determined under Chapter 573, Government Code, if the applicant is not living in a residential care facility, as defined by Section 107.002, and is living at that address and that address is different

1 from the address at which the applicant is registered to vote;

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

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

9 (6) an indication of the ground of eligibility for  
10 early voting.

11 SECTION 2. Section 86.003, Election Code, is amended by  
12 amending Subsections (a), (b), and (c) and adding Subsection (e) to  
13 read as follows:

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

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

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

27 (1) absence from the county of residence, in which

case the address must be an address outside the voter's county of residence;

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

(3) age or disability and the voter is living at a hospital, nursing home or other long-term care facility, or retirement center, other than a residential care facility as defined by Section 107.002, or with a relative described by Section 84.002(a)(3)(B) ~~[84.002(a)(3)]~~, in which case the address must be the address of that facility or relative; or

(4) age or disability and the voter is living in a residential care facility as defined by Section 107.002, in which case the address must be the address of the facility.

(e) A voter who makes 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, as defined by Chapter 107, is required to vote as provided by that chapter if a significant number, as determined by the early voting clerk, of applications for ballots to be voted by mail are made by residents of the same facility who request that the ballots be sent to that facility. The early voting clerk shall determine how many applications constitute a significant number.

SECTION 3. Section 86.004, Election Code, is amended by amending Subsection (a) and adding Subsection (c) to read as follows:

(a) Except as provided by Subsection (b) or (c), the

1 balloting materials for voting by mail shall be mailed to a voter  
2 entitled to vote by mail not later than the seventh calendar day  
3 after the later of the date the clerk accepts the voter's  
4 application for a ballot to be voted by mail or the date the ballots  
5 become available for mailing, except that if that mailing date is  
6 earlier than the 45th day before election day, the balloting  
7 materials shall be mailed not later than the 38th day before  
8 election day.

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

13 (1) the date on which a significant number, as  
14 determined by the early voting clerk, of applications for ballots  
15 to be voted by mail made by residents of the same facility who  
16 request that the ballots be sent to that facility have been  
17 received, in which case ballots may not be mailed to the voters and  
18 voting shall be conducted under Chapter 107; or

19 (2) the last day on which an application for a ballot  
20 to be voted by mail may be received, after which the ballot shall  
21 promptly be mailed to the voter.

22 SECTION 4. Subtitle B, Title 7, Election Code, is amended by  
23 adding Chapter 107 to read as follows:

24 CHAPTER 107. EARLY VOTING AT A RESIDENTIAL CARE FACILITY

25 Sec. 107.001. PURPOSE. This chapter is enacted to  
26 facilitate voting in a hospital, nursing home, other long-term care  
27 facility, or retirement center in which a significant number of

1 occupants, patients, or residents lack adequate transportation to  
2 an appropriate polling place, need assistance in voting, are 65  
3 years of age or older or are disabled, or are indefinitely confined.

4 Sec. 107.002. DEFINITION. In this chapter, "residential  
5 care facility" means a facility licensed and regulated under  
6 Chapter 241, 242, 246, 247, or 248, Health and Safety Code, or  
7 Chapter 105, Human Resources Code.

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

12 Sec. 107.004. EARLY VOTING AT RESIDENTIAL CARE FACILITY  
13 REQUIRED. A voter residing in a residential care facility who has  
14 applied to vote early by mail on the grounds of age or disability  
15 and who requested that the ballot be sent to the address of the  
16 facility must vote as provided by this chapter if a significant  
17 number, as determined by the early voting clerk, of applications  
18 for ballots to be voted by mail were made by residents of the same  
19 facility who requested that the ballots be sent to the facility.

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

24 (b) An election judge serving at a residential care facility  
25 may be a volunteer or an employee of the authority conducting the  
26 election or compensated by the authority conducting the election in  
27 the same manner as an election judge for a polling place for early

1 voting by personal appearance.

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

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

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

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

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

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

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

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

26 I will not influence the choice of a voter to choose a  
27 particular primary ballot, vote in a particular race or election,

1 or vote on a particular proposition.

2 Signed this \_\_\_\_ day of \_\_\_\_, 20\_\_.

3 Sec. 107.006. VOTING LOCATION. (a) The administrator of  
4 the residential care facility shall make available an area located  
5 in a common area of the facility for the purposes of voting under  
6 this chapter. The area shall allow a voter to cast a secret ballot.

7 (b) The facility administrator shall allow posting of  
8 required notices during the period that voting is conducted under  
9 this chapter.

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

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

18 (b) Not later than 5 p.m. on the ninth business day before  
19 election day, the election judges shall, with the input of the  
20 administrator of the residential care facility, designate one or  
21 more times for voting to be conducted. Voting may be conducted not  
22 earlier than the seventh day before election day and not later than  
23 the fourth day before election day.

24 (c) An election judge for a residential care facility shall  
25 post notice of the time or times for conducting the election at the  
26 facility as soon as practicable after determining the time and not  
27 later than the fifth day before the first day on which voting will

1 be conducted at the facility.

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

9 (1) the name of the facility;

10 (2) the address of the facility;

11 (3) the dates and times for voting at the facility; and

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

13 Sec. 107.008. CONDUCT OF ELECTION. (a) In an election  
14 conducted under this chapter, the early voting clerk shall deliver  
15 to the election judges for a residential care facility the  
16 balloting materials for any qualified voters who have requested a  
17 mail ballot for an election that would have been otherwise mailed to  
18 the voter at the facility under Chapter 86.

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

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

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

27 (e) The election judges shall accept the carrier envelope

1 and place the envelope in a secure bag or ballot container for  
2 transport to the early voting clerk's office.

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

6 Sec. 107.009. VOTING BY ADDITIONAL QUALIFIED VOTERS. (a)  
7 The early voting clerk shall produce a list of all additional  
8 qualified voters who reside at a residential care facility where  
9 voting is conducted under this chapter.

10 (b) The clerk shall supply the election judges for the  
11 residential care facility with a reasonable number of additional  
12 ballots and voting materials to allow additional qualified voters  
13 who reside at the facility to vote under this chapter. During the  
14 voting period, any registered voter who resides at the facility may  
15 complete an application to request a mail ballot as if they were  
16 voting by mail. An election judge for the facility shall serve as a  
17 witness for any person who is unable to sign their name and may  
18 witness multiple applications.

19 (c) An election judge for the residential care facility must  
20 accept a properly completed application for a ballot made under  
21 this section, and shall provide a ballot to the voter. The election  
22 judge shall make a notation on an application that it was made under  
23 this section.

24 (d) A voter who applies for a ballot under this section  
25 shall vote in the manner provided by Section 107.008, except that  
26 the voter's ballot must be stored with the voter's application, and  
27 the voter's ballot may not be counted if the voter was not a

1 qualified voter for the election as demonstrated from the  
2 information contained in the voter's application.

3 Sec. 107.010. RETENTION OF RECORDS. (a) The election  
4 judges for the residential care facility shall record the number of  
5 ballots voted. Both of the election judges for each facility and  
6 the early voting clerk shall sign and attest to the number of  
7 ballots issued.

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

10 (1) completed ballots;

11 (2) spoiled ballots; and

12 (3) unused returned ballots.

13 Sec. 107.011. PROOF OF IDENTIFICATION PRESENTED AT  
14 RESIDENTIAL CARE FACILITY. (a) Notwithstanding Section [63.0101](#) or  
15 any other law, a voter voting under this chapter may submit a  
16 statement as proof of identification signed by both election judges  
17 for the residential care facility that:

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

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

21 (b) The election judges shall enclose the statement in the  
22 carrier envelope.

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

1 while voting is conducted.

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

4 (1) an election judge; or

5 (2) a person related to the voter within the second  
6 degree by affinity or third degree by consanguinity, as defined by  
7 Chapter 573, Government Code, and who is present for voting  
8 conducted at the residential care facility.

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

11 Sec. 107.013. SECURITY OF BALLOTS AND MATERIALS. (a) On  
12 completion of the voting each day on which voting is conducted at a  
13 residential care facility under this chapter, the election judges  
14 for the facility shall seal the ballot envelopes and any absentee  
15 ballot applications inside a secure envelope, seal the secure  
16 envelope, and sign the seal. The election judges shall place the  
17 envelope inside a ballot bag or container.

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

22 Sec. 107.014. PROVISION OF MAIL BALLOT TO CERTAIN VOTERS.  
23 If a qualified voter residing at a residential care facility and  
24 seeking to vote at the facility under this chapter is not able to  
25 cast a ballot during any time when voting is conducted at the  
26 facility, the election judges for the facility shall inform the  
27 early voting clerk. The clerk shall mail the ballot to the voter

1 not later than the fourth day before election day.

2 Sec. 107.015. WATCHERS. (a) In an election held under this  
3 chapter, a watcher may observe the process of ballot distribution  
4 in the common areas of a residential care facility in a manner  
5 consistent with Chapter 33.

6 (b) A political party entitled to have the names of its  
7 nominees placed on the general election ballot may appoint a  
8 watcher to accompany the election judges to a residential care  
9 facility.

10 (c) A political party seeking to appoint a watcher to serve  
11 at a residential care facility shall submit the name of the watcher  
12 to the county election officer of the county in which the facility  
13 is located, not later than the close of business on the last  
14 business day before the date the watcher seeks to observe the  
15 conduct of the election under this chapter.

16 (d) A watcher must present the watcher's certificate of  
17 appointment to an election judge for the residential care facility  
18 on arrival at the facility.

19 Sec. 107.016. LIMITATIONS ON APPLICABILITY OF CHAPTER. (a)  
20 The early voting clerk is not required to send election judges to  
21 conduct an election at a residential care facility unless there are  
22 at least five registered voters who are residents of the facility.

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

24 (1) voting early by personal appearance; or

25 (2) voting on election day.

26 Sec. 107.017. RULES. The secretary of state shall adopt  
27 rules and prescribe procedures for voting at a residential care

facility in accordance with this chapter.

SECTION 5. 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 REGARDING EARLY VOTING. A hospital must comply with Chapter 107, Election Code.

SECTION 6. Subchapter A, Chapter 242, Health and Safety Code, is amended by adding Section 242.0181 to read as follows:

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

SECTION 7. 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 8. Subchapter A, Chapter 247, Health and Safety Code, is amended by adding Section 247.008 to read as follows:

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

SECTION 9. 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 10. 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 11. 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 12. This Act takes effect September 1, 2017.