

By: Huffman, et al.

S.B. No. 2149

A BILL TO BE ENTITLED

AN ACT

1
2 relating to early in-person voting by voters who reside at a
3 residential care facility.

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

5 SECTION 1. Section 86.003, Election Code, is amended by
6 amending Subsections (a) and (b) and adding Subsection (e) to read
7 as follows:

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

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

17 (e) A voter who makes an application to vote early by mail on
18 the grounds of age or disability requesting that the ballot be sent
19 to the address of a residential care facility, as defined by Chapter
20 107, is required to vote as provided by that chapter if five or more
21 applications for ballots to be voted by mail are made by residents
22 of the same facility who request that the ballots be sent to that
23 facility.

24 SECTION 2. Section 86.004, Election Code, is amended by

1 amending Subsection (a) and adding Subsection (c) to read as
2 follows:

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

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

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

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

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

26 CHAPTER 107. EARLY VOTING AT A RESIDENTIAL CARE FACILITY

27 Sec. 107.001. PURPOSE. This chapter is enacted to

1 facilitate voting in a nursing home, other long-term care facility,
2 or retirement center in which a significant number of occupants,
3 patients, or residents lack adequate transportation to an
4 appropriate polling place, need assistance in voting, are 65 years
5 of age or older or are disabled, or are indefinitely confined.

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

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

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

21 (b) If a residential care facility has fewer than five
22 residents qualified to vote under this chapter on January 1 of each
23 calendar year, the secretary of state may exempt a residential care
24 facility from the requirements of this chapter. For this exemption
25 to apply, the Department of State Health Services and the facility
26 director must provide written confirmation that the exemption
27 applies to the residential care facility. The secretary of state

1 shall adopt rules to implement this subsection.

2 Sec. 107.005. ELECTION JUDGES; QUALIFICATIONS; OATH.

3 (a) Additional election judges shall be selected to serve at a
4 residential care facility in the same manner as election judges are
5 selected to serve at a polling place for early voting by personal
6 appearance under Chapter 32. The county chair of a political party
7 shall indicate on the list of names of persons whether a person is
8 willing to serve as an election judge under this chapter.

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

14 (c) A person may not serve as an election judge for a
15 residential care facility if at any time during the two years
16 preceding the election, the person has been employed at a
17 residential care facility in the county where the person seeks to
18 serve as an election judge.

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

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

27 I have read the statutes and training materials provided and

1 will conduct this election accordingly.

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

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

6 I will not influence the choice of a voter to choose a
7 particular primary ballot, vote in a particular race or election,
8 or vote on a particular proposition.

9 Signed this ___ day of ____, 20__.

10 Date: _____

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

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

17 (b) The facility administrator shall allow posting of
18 required notices during the period that voting is conducted under
19 this chapter.

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

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

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

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

13 (d) 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 website of the authority conducting the election
17 or posted at the location where public notices are posted in the
18 county courthouse or authority public building, as applicable, and
19 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 (e) The secretary of state with the assistance of the
25 Department of State Health Services shall create a list of all
26 residential care facilities eligible under this chapter on January
27 1 of each calendar year in an early voting clerk's jurisdiction.

1 The secretary of state shall provide the list to the early voting
2 clerk.

3 (f) At any time during the year and regardless of whether
4 five or more voters at a residential care facility have requested
5 ballots to be voted by mail, the early voting clerk may post notice
6 of the dates on which voting will be conducted at the facility under
7 this chapter for each election. If the early voting clerk posts
8 notice under this subsection, the names of the election judges and
9 the hours during which voting will be conducted must be posted at
10 least 48 hours before voting is conducted at the facility,
11 notwithstanding Subsection (c).

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

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

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

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

26 (e) The election judges shall accept the carrier envelope
27 and place the envelope in a secure bag or ballot container for

1 transport to the early voting clerk's office.

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

5 Sec. 107.009. VOTING BY ADDITIONAL QUALIFIED VOTERS.

6 (a) The early voting clerk shall produce a list of all additional
7 qualified voters who reside and are registered to vote at a
8 residential care facility where voting is conducted under this
9 chapter.

10 (b) The clerk shall supply the election judges for the
11 residential care facility with sufficient additional ballots and
12 voting materials to allow any additional qualified voter who
13 resides 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 (e) An election judge at the residential care facility may
4 assist and witness a ballot received by a voter who resides at the
5 facility and is not registered to vote at the facility while the
6 election judge is present at the facility.

7 (f) The secretary of state may prescribe an application for
8 a voter to request a ballot under Subsection (b).

9 Sec. 107.010. RETENTION OF RECORDS. (a) The election
10 judges for the residential care facility shall record the number of
11 ballots voted. Both of the election judges for each facility and
12 the early voting clerk shall sign and attest to the number of
13 ballots issued.

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

- 16 (1) completed ballots;
- 17 (2) spoiled ballots; and
- 18 (3) unused returned ballots.

19 Sec. 107.011. PROOF OF IDENTIFICATION PRESENTED AT
20 RESIDENTIAL CARE FACILITY. (a) Notwithstanding Section 63.0101
21 or any other law, a voter voting under this chapter may submit a
22 statement as proof of identification signed by both election judges
23 for the residential care facility that:

- 24 (1) contains the name and address of the voter; and
- 25 (2) verifies that the voter is a resident of the
26 facility and appears on the list of registered voters.

27 (b) The election judges shall enclose the statement in the

1 carrier envelope.

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

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

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

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

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

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

24 (a) If a qualified voter residing at a residential care facility
25 and seeking to vote at the facility under this chapter is not able
26 to cast a ballot during any time when voting is conducted at the
27 facility, the election judges for the facility shall inform the

1 early voting clerk not later than the fourth day before election
2 day. The clerk shall mail the ballot to the voter not later than the
3 fourth day before election day.

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

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

7 (2) voting by mail.

8 (c) An election judge shall leave a ballot package for a
9 voter who:

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

13 (2) is expected to return to the residential care
14 facility before the deadline for returning a ballot by mail.

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

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

20 (2) the election judge may personally deliver the
21 ballot package to the voter's temporary address, if known.

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

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

25 (2) accept the marked ballot personally.

26 Sec. 107.015. WATCHERS. (a) In an election held under
27 this chapter, a watcher may observe the process of ballot

1 distribution in the common areas of a residential care facility in a
2 manner consistent with Chapter 33.

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

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

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

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

18 Sec. 107.016. LIMITATIONS ON APPLICABILITY OF CHAPTER.

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

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

24 (1) voting early by personal appearance;

25 (2) voting on election day; or

26 (3) voting by mail from an address other than the
27 residential care facility, including from the address of a family

1 member designated under Section 84.002.

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

5 SECTION 4. Subchapter A, Chapter 242, Health and Safety
6 Code, is amended by adding Section 242.0181 to read as follows:

7 Sec. 242.0181. COMPLIANCE WITH CERTAIN REQUIREMENTS
8 REGARDING EARLY VOTING. An institution must comply with Chapter
9 107, Election Code.

10 SECTION 5. Subchapter A, Chapter 247, Health and Safety
11 Code, is amended by adding Section 247.008 to read as follows:

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

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

21 SECTION 7. This Act takes effect September 1, 2017.