

By: Huffman

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 hospital, nursing home, other long-term care
2 facility, or retirement center in which a significant number of
3 occupants, patients, or residents lack adequate transportation to
4 an appropriate polling place, need assistance in voting, are 65
5 years 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 241, 242, 246, 247, or 248, Health and Safety Code, or
9 Chapter 105, Human Resources Code.

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

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

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

26 (b) An election judge serving at a residential care facility
27 may be a volunteer, an employee of the authority conducting the

1 election, or compensated by the authority conducting the election
2 in the same manner as an election judge for a polling place for
3 early voting by personal appearance.

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

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

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

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

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

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

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

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

1 I will not influence the choice of a voter to choose a
2 particular primary ballot, vote in a particular race or election,
3 or vote on a particular proposition.

4 Signed this ___ day of ___, 20__.

5 Date: _____

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

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

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

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

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

27 (c) An election judge for a residential care facility shall

1 post notice of the time or times for conducting the election at the
2 facility as soon as practicable after determining the time and not
3 later than the fifth day before the first day on which voting will
4 be conducted at the facility.

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

- 12 (1) the name of the facility;
13 (2) the address of the facility;
14 (3) the dates and times for voting at the facility; and
15 (4) the names of the election judges for the facility.

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

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

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

26 (d) Both election judges for the residential care facility
27 shall sign the carrier envelope as witnesses. In the space for the

1 address of the witness, each election judge shall write in
2 "Residential Care Facility Election Judge."

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

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

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

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

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

27 (d) A voter who applies for a ballot under this section

1 shall vote in the manner provided by Section 107.008, except that
2 the voter's ballot must be stored with the voter's application, and
3 the voter's ballot may not be counted if the voter was not a
4 qualified voter for the election as demonstrated from the
5 information contained in the voter's application.

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

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

- 13 (1) completed ballots;
- 14 (2) spoiled ballots; and
- 15 (3) unused returned ballots.

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

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

24 (b) The election judges shall enclose the statement in the
25 carrier envelope.

26 Sec. 107.012. ASSISTING VOTER; NOTICE. (a) On written
27 request to the early voting clerk by a relative of a registered

1 voter in a residential care facility, the clerk may notify the
2 relative of the time or times at which election judges will conduct
3 voting at the facility. The relative may be present at the facility
4 while voting is conducted.

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

7 (1) an election judge; or

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

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 If a qualified voter residing at a residential care facility and
25 seeking to vote at the facility under this chapter is not able to
26 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. The clerk shall mail the ballot to the voter
2 not later than the fourth day before election day.

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

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

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

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

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

24 (b) This chapter does not prevent a registered voter from:
25 (1) voting early by personal appearance;
26 (2) voting on election day; or
27 (3) voting by mail from an address other than the

1 residential care facility, including from the address of a family
2 member designated under Section 84.002.

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

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

8 Sec. 241.0071. COMPLIANCE WITH CERTAIN REQUIREMENTS
9 REGARDING EARLY VOTING. A hospital must comply with Chapter 107,
10 Election Code.

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

13 Sec. 242.0181. COMPLIANCE WITH CERTAIN REQUIREMENTS
14 REGARDING EARLY VOTING. An institution must comply with Chapter
15 107, Election Code.

16 SECTION 6. Subchapter A, Chapter 246, Health and Safety
17 Code, is amended by adding Section 246.0041 to read as follows:

18 Sec. 246.0041. COMPLIANCE WITH CERTAIN REQUIREMENTS
19 REGARDING EARLY VOTING. A facility must comply with Chapter 107,
20 Election Code.

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

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

26 SECTION 8. Subchapter A, Chapter 248, Health and Safety
27 Code, is amended by adding Section 248.004 to read as follows:

1 Sec. 248.004. COMPLIANCE WITH CERTAIN REQUIREMENTS
2 REGARDING EARLY VOTING. A special care facility must comply with
3 Chapter 107, Election Code.

4 SECTION 9. Chapter 105, Human Resources Code, is amended by
5 adding Section 105.004 to read as follows:

6 Sec. 105.004. COMPLIANCE WITH CERTAIN REQUIREMENTS
7 REGARDING EARLY VOTING. An establishment must comply with Chapter
8 107, Election Code.

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

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