SENATE AMENDMENTS

2nd Printing

By: Bernal H.B. No. 658

A BILL TO BE ENTITLED

AN ACT

relating to priority voting for voters with certain disabilities substantially impairing mobility.

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

SECTION 1. Chapter 63, Election Code, is amended by adding Section 63.0013 to read as follows:

Sec. 63.0013. ACCEPTING VOTERS WITH CERTAIN DISABILITIES. (a) In this section, "mobility problem that substantially impairs a person's ability to ambulate" has the meaning assigned by Section 681.001, Transportation Code.

(b) An election officer may accept a person with a mobility problem that substantially impairs a person's ability to ambulate who is offering to vote before accepting others offering to vote at the polling place who arrived before the person.

(c) Notice of the priority given to persons with a mobility problem that substantially impairs a person's ability to ambulate shall be posted:

(1) at one or more locations in each polling place where it can be read by persons waiting to vote;

(2) on the Internet website of the secretary of state; and

(3) on each Internet website relating to elections maintained by a county.

(d) The notice required by Subsection (c) must read:

"Pursuant to Section 63.0013, Election Code, an election officer may give voting order priority to individuals with a mobility problem that substantially impairs the person's ability to move around. A person assisting an individual with a mobility problem may also, at the individual's request, be given voting order priority. Disabilities and conditions that may qualify you for voting order priority include paralysis, lung disease, the use of portable oxygen, cardiac deficiency, severe limitation in the ability to walk due to arthritic, neurological, or orthopedic condition, wheelchair confinement, arthritis, foot disorder, the inability to walk 200 feet without stopping to rest, or use of a brace, cane, crutch, or other assistive device."

(e) A person assisting a voter in accordance with Section 64.032(c) may be accepted to vote concurrently with a person accepted under Subsection (b) of this section at the voter's request.

SECTION 2. This Act takes effect September 1, 2017.

ADOPTED

MAY 22 2017

Secretary of the Senate

FLOOR AMENDMENT NO. 1 BY: Joan Huffman

Amend H.B. No. 658 (senate committee printing) by adding the following appropriately numbered SECTIONS to the bill and renumbering the SECTIONS of the bill accordingly:

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

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

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

(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 five or more 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.

SECTION __. 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 balloting materials for voting by mail shall be mailed to a voter entitled to vote by mail not later than the seventh calendar day after the later of the date the clerk accepts the voter's

application for a ballot to be voted by mail or the date the ballots become available for mailing, except that if that mailing date is earlier than the 45th day before election day, the balloting materials shall be mailed not later than the 38th day before election day.

(c) 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, shall be held until the earlier of:

(1) 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 ballots may not be mailed to the voters and voting shall be conducted under Chapter 107; or

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

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

CHAPTER 107. EARLY VOTING AT A RESIDENTIAL CARE FACILITY

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

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, with more than 10 beds.

Sec. 107.003. APPLICABILITY OF EARLY VOTING BY PERSONAL APPEARANCE PROVISIONS. To the extent applicable and not in

conflict with this chapter, Chapter 85 applies to voting at a residential care facility under this chapter.

Sec. 107.004. EARLY VOTING AT RESIDENTIAL CARE FACILITY REQUIRED. (a) 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 address of the facility, must vote as provided by this chapter 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.

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

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 whether 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 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: _____

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

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

(b) The facility administrator shall allow posting of required notices during the period that voting is conducted under

this chapter.

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

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 Internet 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 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.

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

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

Sec. 107.008. CONDUCT OF ELECTION. (a) In an election conducted under this chapter, the early voting clerk shall 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 the voter at the facility under Chapter 86.

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

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

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

(e) The election judges shall accept the carrier envelope

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

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

Sec. 107.009. VOTING BY ADDITIONAL QUALIFIED VOTERS. (a) The early voting clerk shall produce a list of all additional qualified voters who reside and are registered to vote at a residential care facility where voting is conducted under this chapter.

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

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

(d) A voter who applies for a ballot under this section shall vote in the manner provided by Section 107.008, except that the voter's ballot must be stored with the voter's application, and the voter's ballot may not be counted if the voter was not a qualified voter for the election as demonstrated from the information contained in the voter's application.

(e) An election judge at the residential care facility may

assist and witness a ballot received by a voter who resides at the facility and is not registered to vote at the facility while the election judge is present at the facility.

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

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

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

(1) completed ballots;

(2) spoiled ballots; and

(3) unused returned ballots.

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

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

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

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

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. (a) On completion of the voting each day on which voting is conducted at a residential care facility under this chapter, the election judges for the facility shall seal the ballot envelopes and any absentee ballot applications inside a secure envelope and shall seal the envelope and sign the seal. The election judges shall place the envelope inside a ballot bag or container.

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

Sec. 107.014. PROVISION OF MAIL BALLOT TO CERTAIN VOTERS. (a) If a qualified voter residing at a residential care facility and seeking to vote at the facility under this chapter is not able to cast a ballot during any time when voting is conducted at the facility, the election judges for the facility shall inform the early voting clerk not later than the fourth day before election day. The clerk shall mail the ballot to the voter not later than the fourth day before election day.

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

(1) voting in person on election day; or

(2) voting by mail.

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

(1) requested a ballot to be voted by mail and was not present during the scheduled time for early voting at the

residential care facility; and

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

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

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

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

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

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

(2) accept the marked ballot personally.

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

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

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

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

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

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

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

(1) voting early by personal appearance;

(2) voting on election day; or

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

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 __. 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 __. 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 __. 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

1 continued in effect for that purpose.

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 85TH LEGISLATIVE REGULAR SESSION

May 23, 2017

TO: Honorable Joe Straus, Speaker of the House, House of Representatives

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: **HB658** by Bernal (Relating to priority voting for voters with certain disabilities substantially impairing mobility.), **As Passed 2nd House**

No significant fiscal implication to the State is anticipated.

The bill would amend the Election Code allowing an election officer to give priority to a person who has a mobility problem that substantially impairs the person's ability to ambulate. A notice must be posted at one or more locations in each polling place, on the website of the Secretary of State, and on the website relating to elections maintained by a county.

The bill would amend the Election Code and Health and Safety Code allowing certain persons at a residential care facility to request a mail in ballot and allow early voting at residential care facilities.

The bill would take effect September 1, 2017.

The Secretary of State anticipates being able to carry out any additional responsibilities from the bill with existing resources.

Local Government Impact

According to Williamson County and the Texas Association of Counties, the potential local government cost to implement the early voting at residential care facilities would be significant but cannot be estimated currently.

Source Agencies: 307 Secretary of State
LBB Staff: UP, AG, LBO, GG, BM, ASa

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 85TH LEGISLATIVE REGULAR SESSION

May 12, 2017

TO: Honorable Joan Huffman, Chair, Senate Committee on State Affairs

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: **HB658** by Bernal (Relating to priority voting for voters with certain disabilities substantially impairing mobility.), **As Engrossed**

No significant fiscal implication to the State is anticipated.

The bill would amend the Election Code allowing an election officer to give priority to a person who has a mobility problem that substantially impairs the person's ability to ambulate. A notice must be posted at one or more locations in each polling place, on the website of the secretary of state, and on the website relating to elections maintained by a county.

The bill would take effect September 1, 2017.

The Secretary of State anticipates being able to carry out any additional responsibilities from the bill with existing resources.

Local Government Impact

According to Texas Association of Counties, no significant fiscal impact to local government is anticipated.

Source Agencies: 307 Secretary of State
LBB Staff: UP, AG, LBO, GG, BM, ASa

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 85TH LEGISLATIVE REGULAR SESSION

May 5, 2017

TO: Honorable Jodie Laubenberg, Chair, House Committee on Elections

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: **HB658** by Bernal (Relating to priority voting for voters with certain disabilities substantially impairing mobility.), **Committee Report 1st House, Substituted**

No significant fiscal implication to the State is anticipated.

The bill would amend the Election Code allowing an election officer to give priority to a person who has a mobility problem that substantially impairs the person's ability to ambulate. A notice must be posted at one or more locations in each polling place, on the website of the secretary of state, and on the website relating to elections maintained by a county.

The bill would take effect September 1, 2017.

The Secretary of State anticipates being able to carry out any additional responsibilities from the bill with existing resources.

Local Government Impact

According to Texas Association of Counties, no significant fiscal impact to local government is anticipated.

Source Agencies: 307 Secretary of State
LBB Staff: UP, LBO, GG, BM, ASa

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 85TH LEGISLATIVE REGULAR SESSION

March 31, 2017

TO: Honorable Jodie Laubenberg, Chair, House Committee on Elections

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: **HB658** by Bernal (Relating to priority voting for voters with certain disabilities substantially impairing mobility.), **As Introduced**

No significant fiscal implication to the State is anticipated.

The bill would amend the Election Code allowing an election officer to give priority to a person who has a mobility problem that substantially impairs the person's ability to ambulate. A notice must be posted at one or more locations in each polling place, on the website of the secretary of state, and on the website relating to elections maintained by a county.

The bill would take effect September 1, 2017.

The Secretary of State anticipates being able to carry out any additional responsibilities from the bill with existing resources.

Local Government Impact

According to Texas Association of Counties, no significant fiscal impact to local government is anticipated.

Source Agencies: 307 Secretary of State
LBB Staff: UP, LBO, GG, BM, ASa