86R12854 ADM-D

By:  Hall S.B. No. 1605

A BILL TO BE ENTITLED

AN ACT

relating to election integrity; creating criminal offenses; increasing criminal penalties; imposing a civil penalty.

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

ARTICLE 1. EARLY VOTING AND POLLING PLACES

SECTION 1.01.  Section 84.002, Election Code, is amended by adding Subsections (c) and (d) to read as follows:

(c)  An application for a ballot under this section must require the voter to affirmatively indicate the voter's ground of eligibility for early voting.

(d)  An application for a ballot under this section must contain:

(1)  a space for a person who assists the voter with the application to indicate the person's name and address; and

(2)  if the application was provided to the voter by a political party, a political action committee, or a candidate, the identity of the party, committee, or candidate, as appropriate.

SECTION 1.02.  Section 84.003(b), Election Code, is amended to read as follows:

(b)  A person who acts as a witness for an applicant for an early voting ballot application commits an offense if the person knowingly fails to comply with Section 1.011. A person who [~~in the presence of the applicant~~] otherwise assists an applicant in completing an early voting ballot application commits an offense if the person knowingly fails to comply with Section 1.011(d) in the same manner as a witness.

SECTION 1.03.  Section 86.0051(d), Election Code, is amended to read as follows:

(d)  An offense under this section is a [~~Class A misdemeanor, unless it is shown on the trial of an offense under this section that the person committed an offense under Section 64.036 for providing unlawful assistance to the same voter in connection with the same ballot, in which event the offense is a~~] state jail felony.

SECTION 1.04.  Section 87.027(i), Election Code, is amended to read as follows:

(i)  The signature verification committee shall compare the signature on each carrier envelope certificate, except those signed for a voter by a witness, with the signature on the voter's ballot application to determine whether the signatures are those of the voter.  The committee may also compare the signatures with any known signature [~~two or more signatures~~] of the voter [~~made within the preceding six years and~~] on file with the county clerk or voter registrar to determine whether the signatures are those of the voter.  Except as provided by Subsection (l), a determination under this subsection that the signatures are not those of the voter must be made by a majority vote of the committee's membership.  The committee shall place the jacket envelopes, carrier envelopes, and applications of voters whose signatures are not those of the voter in separate containers from those of voters whose signatures are those of the voter.  The committee chair shall deliver the sorted materials to the early voting ballot board at the time specified by the board's presiding judge.

SECTION 1.05.  Sections 87.041(b), (c), (e), and (g), Election Code, are amended to read as follows:

(b)  A ballot may be accepted only if:

(1)  the carrier envelope certificate is properly executed;

(2)  neither the voter's signature on the ballot application nor the signature on the carrier envelope certificate is determined to have been executed by a person other than the voter, unless signed by a witness;

(3)  the voter's ballot application states a legal ground for early voting by mail;

(4)  the voter is registered to vote, if registration is required by law;

(5)  the address to which the ballot was mailed to the voter, as indicated by the application, was outside the voter's county of residence, if the ground for early voting is absence from the county of residence;

(6)  for a voter to whom a statement of residence form was required to be sent under Section 86.002(a), the statement of residence is returned in the carrier envelope and indicates that the voter satisfies the residence requirements prescribed by Section 63.0011; [~~and~~]

(7)  the address to which the ballot was mailed to the voter is an address that is otherwise required by Sections 84.002 and 86.003; and

(8)  the person determining whether to accept the ballot has confirmed that the voter did not cast a ballot in person for the election.

(c)  If a ballot is accepted, the member of the board who accepted the ballot shall initial the carrier envelope, and the board shall enter the voter's name on the poll list unless the form of the list makes it impracticable to do so. The names of the voters casting ballots by mail shall be listed separately on the poll list from those casting ballots by personal appearance.

(e)  In making the determination under Subsection (b)(2), the board may also compare the signatures with any known signature [~~two or more signatures~~] of the voter [~~made within the preceding six years and~~] on file with the county clerk or voter registrar to determine whether the signatures are those of the voter.

(g)  A person commits an offense if the person intentionally accepts a ballot for voting or causes a ballot to be accepted for voting that the person knows does not meet the requirements of Subsection (b).  An offense under this subsection is a state jail felony [~~Class A misdemeanor~~].

SECTION 1.06.  Section 87.042(b), Election Code, is amended to read as follows:

(b)  The [~~Except as provided by Subsection (c), the~~] board shall place the ballot envelope containing an accepted ballot in a separate container from the ballot box containing the early voting ballots voted by personal appearance.

SECTION 1.07.  Section 87.0241, Election Code, is amended to read as follows:

Sec. 87.0241.  ACCEPTING EARLY VOTING BALLOT VOTED BY MAIL [~~PROCESSING BALLOTS~~] BEFORE IN-PERSON BALLOTS COUNTED: OFFENSE [~~POLLS OPEN~~]. (a) The early voting ballot board may not determine whether to accept early voting ballots voted by mail in accordance with Section 87.041 until after all ballots cast in person for the election have been counted [~~at any time after the ballots are delivered to the board~~].

(b)  A member of an early voting ballot board commits an offense if the person accepts an early voting ballot voted by mail in violation of Subsection (a) [~~The board may not count early voting ballots until:~~

[~~(1)  the polls open on election day; or~~

[~~(2)  in an election conducted by an authority of a county with a population of 100,000 or more or conducted jointly with such a county, the end of the period for early voting by personal appearance~~].

(c)  An offense under this section is a state jail felony [~~The secretary of state shall prescribe any procedures necessary for implementing this section in regard to elections described by Subsection (b)(2)~~].

SECTION 1.08.  Sections 87.062(a) and (c), Election Code, are amended to read as follows:

(a)  On the direction of the presiding judge, the early voting ballot board, in accordance with Section 85.032(b), shall open the containers [~~container~~] for the early voting ballots that are to be counted by the board, remove the contents from each [~~the~~] container, and remove any ballots enclosed in ballot envelopes from their envelopes.

(c)  Ballots voted by mail shall be tabulated separately from the ballots voted by personal appearance and shall be separately reported on the returns [~~The results of all early voting ballots counted by the board under this subchapter shall be included in the same return~~].

SECTION 1.09.  Section 87.103, Election Code, is amended to read as follows:

Sec. 87.103.  COUNTING BALLOTS AND PREPARING RETURNS. (a) The early voting electronic system ballots counted at a central counting station, the ballots cast at precinct polling places, and the ballots voted by mail shall be tabulated separately [~~from the ballots cast at precinct polling places~~] and shall be separately reported on the returns.

(b)  The early voting returns prepared at the central counting station must include any early voting results obtained by the early voting ballot board under Subchapter [~~Subchapters~~] D [~~and E~~].

ARTICLE 2. ELECTION DAY AND TABULATION OF RESULTS

SECTION 2.01.  Section 52.075, Election Code, is amended to read as follows:

Sec. 52.075.  MODIFICATION OF BALLOT FORM FOR CERTAIN VOTING SYSTEMS.  The secretary of state may prescribe the form and content of a ballot for an election using a voting system, including an electronic voting system [~~or a voting system that uses direct recording electronic voting machines~~], to conform to the formatting requirements of the system.

SECTION 2.02.  Section 63.001, Election Code, is amended by adding Subsection (c-2) to read as follows:

(c-2)  If the list of registered voters for the precinct required under Subsection (c) is electronic, a paper copy must be kept at the polling place and must be used to accept voters if the electronic copy malfunctions.

SECTION 2.03.  Section 63.011, Election Code, is amended by amending Subsection (b) and adding Subsection (b-2) to read as follows:

(b)  A form for an affidavit required by this section must be printed on an envelope in which the provisional ballot voted by the person may be placed and must include:

(1)  a space for entering the identification number of the provisional ballot voted by the person; and

(2)  a space for an election officer to indicate:

(A)  whether the person presented a form of identification described by Section 63.0101; and

(B)  the reason why the person voted provisionally.

(b-2)  An election officer commits an offense if the officer intentionally indicates under Subsection (b)(2)(B) a reason for a person voting a provisional ballot other than the actual reason. An offense under this subsection is a state jail felony.

SECTION 2.04.  Chapter 63, Election Code, is amended by adding Section 63.0111 to read as follows:

Sec. 63.0111.  OFFENSES RELATED TO ACCEPTANCE OF VOTER. (a) An election officer commits an offense if the officer accepts a voter for voting under Section 63.001 if the voter is only permitted to vote a provisional ballot in the election.

(b)  An election officer commits an offense if the officer knowingly accepts or permits the same person to vote more than one ballot in the same election.

(c)  An offense under this section is a state jail felony.

SECTION 2.05.  Sections 64.036(a) and (d), Election Code, are amended to read as follows:

(a)  A person commits an offense if the person knowingly:

(1)  provides assistance to a voter who is not eligible for assistance;

(2)  while assisting a voter prepares the voter's ballot in a way other than the way the voter directs or without direction from the voter;

(3)  while assisting a voter suggests by word, sign, or gesture how the voter should vote; or

(4)  provides assistance, or offers to provide assistance, to a voter who has not requested assistance, indicated that the person is eligible for assistance, or selected the person to assist the voter.

(d)  An offense under this section is a state jail felony [~~Class A misdemeanor~~].

SECTION 2.06.  Section 65.002, Election Code, is amended by adding Subsections (d) and (e) to read as follows:

(d)  A county election officer who intentionally prevents or delays the presiding judge from counting ballots in accordance with Subsection (c) commits an offense.

(e)  An offense under Subsection (d) is a state jail felony.

SECTION 2.07.  Section 122.001, Election Code, is amended by adding Subsection (d-1) to read as follows:

(d-1)  Effective September 1, 2023, a voting system may not be used in an election if the voting system does not use a paper record or produce a paper receipt that can be used to verify the tabulation of electronic voting system results.

SECTION 2.08.  Subchapter A, Chapter 122, Election Code, is amended by adding Section 122.0031 to read as follows:

Sec. 122.0031.  UNIFORM PROCEDURES FOR CERTAIN VOTING SYSTEMS. (a) This section applies to an election in which a voting system described by Section 122.001(d-1) is used.

(b)  Not later than the 90th day before an election to which this section applies, the secretary of state shall adopt uniform procedures for the numbering of ballots in the election and the accountability of ballots.

SECTION 2.09.  Subchapter A, Chapter 123, Election Code, is amended by adding Section 123.010 to read as follows:

Sec. 123.010.  DIRECT RECORDING ELECTRONIC VOTING SYSTEM PROHIBITED. Except as necessary to comply with Section 61.012, an authority may not adopt a voting system that uses direct recording electronic voting machines.

SECTION 2.10.  Subchapter C, Chapter 127, Election Code, is amended by adding Section 127.062 to read as follows:

Sec. 127.062.  SEALED BALLOT BOXES FOR HYBRID VOTING SYSTEM. (a) This section applies to an election where a voting system is used that produces both an electronic system ballot and a paper record or receipt.

(b)  All provisions of this subchapter that apply to an electronic system ballot also apply to the paper record or receipt generated by a voting system.

ARTICLE 3. STATE OFFICIALS, CITIZENSHIP, AND REGISTRATION

SECTION 3.01.  Chapter 1, Election Code, is amended by adding Section 1.021 to read as follows:

Sec. 1.021.  RESIDENCE FOR CERTAIN REGISTERED VOTERS. (a)  For purposes of registration under this code, a person's residence is established at the first residence address in the following list that is applicable to the person:

(1)  the address stated on a driver's license issued to the person by the Department of Public Safety that has not expired or, if the person has notified the department of a change of address under Section 521.054, Transportation Code, the new address contained in the notification;

(2)  the address stated on a personal identification card issued to the person by the Department of Public Safety that has not expired or, if the person has notified the department of a change of address under Section 521.054, Transportation Code, the new address contained in the notification;

(3)  the address stated on a license to carry a concealed handgun issued to the person by the Department of Public Safety that has not expired or, if the person has notified the department of a change of address under Section 411.181, Government Code, the new address contained in the notification;

(4)  an address corresponding to a residence at which the person receives mail;

(5)  the address the person claims as a homestead in this state; or

(6)  the registration address of a vehicle the person owns.

(b)  A person whose residence in this state has no address may establish residence under this section by executing an affidavit stating that the person's residence in this state has no address and filing the affidavit with the secretary of state.

(c)  The address described by Subsection (a)(4) may not be a commercial post office box or similar location that does not correspond to a residence.

(d)  This section does not apply to:

(1)  a person who is a member of the armed forces of the United States or the spouse or a dependent of a member; or

(2)  a person enrolled as a full-time student at an institution of higher education.

(e)  The secretary of state shall adopt rules as necessary to implement this section.

SECTION 3.02.  Section 13.071, Election Code, is amended to read as follows:

Sec. 13.071.  REVIEW OF APPLICATION. (a) The registrar shall review each submitted application for registration to determine whether it complies with Section 13.002 and indicates that the applicant is a United States citizen eligible for registration.

(b)  If the application is submitted to the Department of Public Safety in person with the proof of citizenship required by Section 20.063(e), the [~~The~~] registrar shall make the determination not later than the seventh day after the date the application is submitted to the registrar.

(c)  If the application is submitted in a manner other than the manner described by Subsection (b), the registrar shall forward the information relating to the applicant to the secretary of state for determining citizenship as provided by Section 13.0721.

SECTION 3.03.  Subchapter C, Chapter 13, Election Code, is amended by adding Section 13.0721 to read as follows:

Sec. 13.0721.  DETERMINATION OF CITIZENSHIP. (a) This section does not apply to an application for registration submitted to the Department of Public Safety in person with the proof of citizenship required by Section 20.063(e).

(b)  The secretary of state shall verify with the Department of Public Safety the citizenship status of each applicant for voter registration whose information is forwarded to the secretary of state as provided by Section 13.071(c). If the department verifies the applicant's citizenship status, the secretary of state shall notify the registrar. If the department does not have information regarding the citizenship status of the applicant or has information indicating that the applicant is not a citizen, the registrar and the applicant shall be notified as provided by secretary of state rule.

(c)  An applicant for voter registration who receives notice under Subsection (b) must provide proof of citizenship to the registrar not later than the 60th day after the date of receipt. Except as provided by Subsection (d), this proof must be presented in person. The following is acceptable as proof of citizenship under this section:

(1)  an unexpired passport issued to the person;

(2)  a certified copy of a birth certificate or other document confirming the person's birth that is admissible in a court of law and establishes the person's identity, presented with a government-issued identification that contains the person's photograph; or

(3)  United States citizenship papers issued to the person, presented with a government-issued identification that contains the person's photograph.

(d)  An applicant may mail a certified copy of a document described by Subsection (c)(2) or (3) with a copy of the person's government-issued photo identification to the registrar.

(e)  If an applicant does not provide proof of citizenship as required, the registrar shall reject the application and notify the secretary of state. The secretary of state shall keep a list of applicants for which the secretary receives notice under this section.

(f)  The secretary of state shall adopt rules and prescribe procedures to implement this section.

SECTION 3.04.  Section 13.143(a), Election Code, is amended to read as follows:

(a)  Except as provided by Subsection [~~Subsections~~] (b) [~~and (e)~~], if an applicant's registration application is approved, the registration becomes effective on the 30th day after the date the application is approved [~~submitted to the registrar~~] or on the date the applicant becomes 18 years of age, whichever is later.

SECTION 3.05.  Section 16.031(a), Election Code, is amended to read as follows:

(a)  The registrar shall cancel a voter's registration immediately on receipt of:

(1)  notice under Section 13.072(b) or 15.021 or a response under Section 15.053 that the voter's residence is outside the county;

(2)  an abstract of the voter's death certificate under Section 16.001(a) or an abstract of an application indicating that the voter is deceased under Section 16.001(b);

(3)  an abstract of a final judgment of the voter's total mental incapacity, partial mental incapacity without the right to vote, conviction of a felony, or disqualification under Section 16.002, 16.003, or 16.004;

(4)  notice under Section 112.012 that the voter has applied for a limited ballot in another county;

(5)  notice from a voter registration official in another state that the voter has registered to vote outside this state;

(6)  notice from the early voting clerk under Section 101.053 that a federal postcard application submitted by an applicant states a voting residence address located outside the registrar's county; [~~or~~]

(7)  notice from the secretary of state that the voter has registered to vote in another county, as determined by the voter's driver's license number or personal identification card number issued by the Department of Public Safety or social security number; or

(8)  a list under Section 18.068 of this code or Section 62.113, Government Code, of persons excused or disqualified from jury service because of citizenship status that includes the voter, or notice from any governmental agency that the voter has acknowledged that the voter is not a citizen of the United States.

SECTION 3.06.  Section 16.036(a), Election Code, is amended to read as follows:

(a)  Immediately after, but not later than the 30th day after the date a voter's registration is canceled under Section 16.031(a)(3) or (8), 16.033, or 16.0331, [~~or 16.0332,~~] the registrar shall deliver written notice of the cancellation to the voter.

SECTION 3.07.  Section 18.065, Election Code, is amended by adding Subsections (e), (f), and (g) to read as follows:

(e)  If a registrar fails to correct a violation within 30 days of a notice under Subsection (b), the secretary of state shall correct the violation on behalf of the registrar.

(f)  A registrar is liable to this state for a civil penalty of $50 for each violation corrected by the secretary of state under Subsection (e). The attorney general may bring an action to recover a civil penalty imposed under this section.

(g)  A civil penalty collected by the attorney general under this section shall be deposited in the state treasury to the credit of the general revenue fund.

SECTION 3.08.  Section 18.068, Election Code, is amended to read as follows:

Sec. 18.068.  COMPARISON OF INFORMATION REGARDING INELIGIBILITY. (a) The secretary of state shall quarterly compare the information received under Section 16.001 of this code and Section 62.113, Government Code, to the statewide computerized voter registration list.

(a-1)  The secretary of state shall enter into an agreement with the Department of Public Safety under which information in the statewide computerized voter registration list is compared against information in the database of the Department of Public Safety on a monthly basis to verify the accuracy of information provided on voter registration applications. The Department of Public Safety shall use any available information under the federal REAL ID program to assist the secretary under this subsection. The information compared must include, at a minimum, a voter's:

(1)  full legal name;

(2)  former name, if applicable;

(3)  date of birth;

(4)  residence address;

(5)  driver's license or state identification card number;

(6)  signature;

(7)  social security number;

(8)  documentation of lawful presence in this state; and

(9)  citizenship status.

(a-2)  If the secretary of state determines from information received under Subsection (a) or (a-1) that a voter on the registration list may be ineligible to vote [~~is deceased or has been excused or disqualified from jury service because the voter is not a citizen~~], the secretary shall send notice of the determination to:

(1)  the voter registrar of the counties considered appropriate by the secretary; and

(2)  if appropriate, the attorney general.

(b)  The secretary of state shall by rule determine what information combinations identified as common to a voter and to an individual who is deceased or ineligible to vote constitute a weak match or a strong match in order to:

(1)  produce the least possible impact on Texas voters; and

(2)  fulfill its responsibility to manage the voter rolls.

(c)  The secretary of state may not determine that a voter is deceased or ineligible to vote based on a weak match.  The secretary of state may inform the county of the voter's residence that a weak match exists.

(d)  On receiving notification from the secretary of state under Subsection (c) that a weak match of identifying information exists for a county voter and an individual who is deceased or ineligible to vote, the county shall investigate whether the voter is that [~~the~~] individual [~~who is deceased~~].

(e)  The secretary of state may determine that a voter is deceased or ineligible to vote based on a strong match.

(f)  The secretary of state may obtain, for purposes of determining whether a voter is deceased or ineligible to vote, information from other state agency databases relating to a voter that is the same type of information that the secretary of state or a voter registrar collects or stores for voter registration purposes.

SECTION 3.09.  Section 19.001(a), Election Code, is amended to read as follows:

(a)  Before May 15 of each year, the registrar shall prepare and submit to the secretary of state a statement containing:

(1)  the total number of initial registrations for the previous voting year;

(2)  the total number of registrations canceled under Sections 16.031(a)(1) and (8) and Section [~~,~~] 16.033[~~, and 16.0332~~] for the previous voting year; and

(3)  the total number of registrations for which information was updated for the previous voting year.

SECTION 3.10.  Section 20.063, Election Code, is amended by adding Subsection (e) to read as follows:

(e)  A person who submits a voter registration application to the department in person shall at the time of submission present as proof of citizenship:

(1)  an unexpired passport issued to the person;

(2)  a certified copy of a birth certificate or other document confirming the person's birth that is admissible in a court of law and establishes the person's identity; or

(3)  United States citizenship papers issued to the person.

ARTICLE 4. REPEALER, TRANSITION, AND EFFECTIVE DATE

Section 4.01.  The following provisions of the Election Code are repealed:

(1)  Section 13.041;

(2)  Sections 13.143(d) and (e);

(3)  Section 16.0332;

(4)  Section 66.058(g);

(5)  Section 87.042(c);

(6)  Sections 127.201(f) and (g);

(7)  Chapter 129; and

(8)  Section 213.016.

SECTION 4.02.  Section 33.05, Penal Code, is repealed.

SECTION 4.03.  The changes in law made by this Act in repealing or amending the punishments for existing criminal offenses apply only to an offense committed on or after the effective date of this Act. An offense committed before the effective date of this Act is governed by the law in effect on the date the offense was committed, and the former law is continued in effect for that purpose. For purposes of this section, an offense was committed before the effective date of this Act if any element of the offense occurred before that date.

SECTION 4.04.  This Act takes effect September 1, 2019.