

By: Cain

H.B. No. 4406

A BILL TO BE ENTITLED

AN ACT

relating to elections; creating criminal offenses; increasing criminal penalties.

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

SECTION 1. The heading to Chapter 2, Election Code, is amended to read as follows:

CHAPTER 2. VOTE REQUIRED FOR ELECTION [~~TO OFFICE~~]

SECTION 2. Chapter 2, Election Code, is amended by adding Subchapter E to read as follows:

SUBCHAPTER E. SUPERMAJORITY REQUIREMENT FOR CERTAIN ELECTIONS

Sec. 2.101. POLITICAL SUBDIVISION BOND ELECTION.

Notwithstanding any other law, an election held by a political subdivision to authorize the issuance of bonds does not authorize the issuance of the bonds unless at least:

(1) two-thirds of the voters voting in the election vote in favor of authorizing the issuance of bonds; and

(2) 20 percent of registered voters eligible to vote in the election vote in the election.

SECTION 3. Section 13.007(b), Election Code, is amended to read as follows:

(b) An offense under this section is a Class B misdemeanor, unless the false statement is that the person lists a residence address other than the person's actual residence under Section 1.015, in which case it is a state jail felony.

1 SECTION 4. Section 13.144, Election Code, is amended by
2 amending Subsection (a) and adding Subsection (c) to read as
3 follows:

4 (a) Except as provided by Subsection (c), not ~~[Not]~~ later
5 than the 30th day after the date the registrar receives the
6 application, the registrar shall deliver the original of an initial
7 certificate:

8 (1) in person to the applicant or the applicant's agent
9 appointed under Section 13.003; or

10 (2) by mail to the applicant.

11 (c) The registrar may not make a delivery under this section
12 in the 30 days immediately preceding a uniform election date.

13 SECTION 5. Subchapter D, Chapter 31, Election Code, is
14 amended by adding Section 31.0926 to read as follows:

15 Sec. 31.0926. REQUEST FOR SERVICES REQUIRED: MAY ELECTION
16 DATE. (a) This section applies only to a political subdivision
17 located entirely in a county with a population of 250,000 or more.

18 (b) The governing body of a political subdivision shall
19 request an election services contract with the county elections
20 administrator to perform all duties and functions of the political
21 subdivision in relation to an election held on the May uniform
22 election date.

23 SECTION 6. Section 32.034, Election Code, is amended by
24 amending Subsections (b) and (c) and adding Subsection (c-1) to
25 read as follows:

26 (b) The county chair of a political party whose candidate
27 for governor received the highest or second highest number of votes

1 in the county in the most recent gubernatorial general election
2 may, not later than the 25th day before a general election or the
3 10th day before a special election to which Subsection (a) applies,
4 submit to a presiding judge a list containing the names of at least
5 two persons who are eligible for appointment as a clerk. If a
6 timely list is submitted, the presiding judge shall appoint at
7 least one clerk from the list, except as provided by Subsections
8 [~~Subsection~~] (c) and (c-1).

9 (c) If only one additional clerk is to be appointed for an
10 election in which the alternate presiding judge will serve as a
11 clerk after the alternate presiding judge has made an appointment
12 under Subsection (c-1), the clerk shall be appointed from the list
13 of a political party with which neither the presiding judge nor the
14 alternate judge is affiliated or aligned, if such a list is
15 submitted. If two such lists are submitted, the presiding judge
16 shall decide from which list the appointment will be made. If such
17 a list is not submitted, the presiding judge is not required to make
18 an appointment from any list.

19 (c-1) In an election in which the alternate presiding judge
20 will serve as a clerk, the alternate presiding judge may appoint a
21 clerk to serve at the same location as the judge.

22 SECTION 7. Section 52.072, Election Code, is amended by
23 adding Subsection (f) to read as follows:

24 (f) A proposition may not exceed 400 characters.

25 SECTION 8. Chapter 63, Election Code, is amended by adding
26 Section 63.0111 to read as follows:

27 Sec. 63.0111. OFFENSES RELATED TO PROVISIONAL VOTING. (a)

1 An election judge commits an offense if the judge accepts a voter
2 for voting under Section 63.001 if the voter is only permitted to
3 vote a provisional ballot in the election.

4 (b) An election judge commits an offense if the judge, in
5 one election, accepts for voting under Section 63.001 three or more
6 voters whose names are not on the list of registered voters for the
7 precinct.

8 (c) An election judge commits an offense if the judge
9 provides a voter with a form for an affidavit required by Section
10 63.001 if the form contains false information.

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

12 SECTION 9. Section 64.031, Election Code, is amended to
13 read as follows:

14 Sec. 64.031. ELIGIBILITY FOR ASSISTANCE. (a) A voter is
15 eligible to receive assistance in marking or reading the ballot, as
16 provided by this subchapter, if the voter cannot prepare or read the
17 ballot because of:

18 (1) a physical disability that renders the voter
19 unable to write or see; or

20 (2) an inability to read the language in which the
21 ballot is written.

22 (b) A voter is only eligible to receive assistance in
23 marking the ballot if the voter has a physical disability that
24 renders the voter unable to write or see.

25 SECTION 10. Sections 64.036(a), (b), and (d), Election
26 Code, are amended to read as follows:

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

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

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

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

8 (4) provides assistance, or offers to provide
9 assistance, to a voter who has not requested assistance or selected
10 the person to assist the voter.

11 (b) A person commits an offense if the person knowingly
12 assists a voter in violation of:

13 (1) Section 64.031(b); or

14 (2) Section 64.032(c).

15 (d) An offense under this section is a Class A misdemeanor,
16 unless the offense is committed under Subsection (a)(4) or (b)(1),
17 in which case it is a state jail felony.

18 SECTION 11. Section 86.003, Election Code, is amended by
19 amending Subsections (a) and (b) and adding Subsection (e) to read
20 as follows:

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

25 (b) Subject to Subsection (c), the balloting materials
26 shall be addressed to the applicable address specified in the
27 voter's application. The election officer providing the ballot may

1 not knowingly deliver [~~mail~~] the materials to an address other than
2 that prescribed by this section.

3 (e) A voter who makes an application to vote early by mail on
4 the grounds of age or disability requesting that the ballot be sent
5 to the address of a residential care facility, as defined by Section
6 107.002, is required to vote as provided by that chapter if five or
7 more applications for ballots to be voted by mail are made by
8 residents of the same facility who request that the ballots be sent
9 to that facility.

10 SECTION 12. Section 86.004, Election Code, is amended by
11 amending Subsection (a) and adding Subsection (c) to read as
12 follows:

13 (a) Except as provided by Subsection (b) or (c), the
14 balloting materials for voting by mail shall be mailed to a voter
15 entitled to vote by mail not later than the seventh calendar day
16 after the later of the date the clerk accepts the voter's
17 application for a ballot to be voted by mail or the date the ballots
18 become available for mailing, except that if that mailing date is
19 earlier than the 45th day before election day, the balloting
20 materials shall be mailed not later than the 30th day before
21 election day.

22 (c) An application to vote early by mail on the grounds of
23 age or disability requesting that the ballot be sent to the address
24 of a residential care facility, as defined by Section 107.002,
25 shall be held until the earlier of:

26 (1) the date on which five or more applications for
27 ballots to be voted by mail made by residents of the same facility

1 who request that the ballots be sent to that facility have been
2 received, in which case ballots may not be mailed to the voters and
3 voting shall be conducted under Chapter 107; or

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

7 SECTION 13. Subtitle B, Title 7, Election Code, is amended
8 by adding Chapter 107 to read as follows:

9 CHAPTER 107. EARLY VOTING AT A RESIDENTIAL CARE FACILITY

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

16 Sec. 107.002. DEFINITION. In this chapter, "residential
17 care facility" means a facility licensed and regulated under
18 Chapter 242 or 247, Health and Safety Code.

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

23 Sec. 107.004. EARLY VOTING AT RESIDENTIAL CARE FACILITY
24 REQUIRED. A voter residing in a residential care facility who has
25 applied to vote early by mail on the grounds of age or disability
26 and who requested that the ballot be sent to the address of the
27 facility must vote as provided by this chapter if five or more

1 applications for ballots to be voted by mail were made by residents
2 of the same facility who requested that the ballots be sent to the
3 facility.

4 Sec. 107.005. ELECTION JUDGES; QUALIFICATIONS; OATH. (a)
5 Additional election judges shall be selected to serve at a
6 residential care facility in the same manner as election judges are
7 selected to serve at a polling place for early voting by personal
8 appearance under Chapter 32. The county chair of a political party
9 shall indicate on the list of names of persons if a person is
10 willing to serve as an election judge under this chapter.

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

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

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

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

1 of the election.

2 I have read the statutes and training materials provided and
3 will conduct this election accordingly.

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

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

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

11 Signed: _____

12 This ____ day of _____, 20__.

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

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

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

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

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

1 the facility and appoint election judges for the purpose of
2 conducting voting under this chapter.

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

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

15 (d) The secretary of state with the assistance of the
16 Department of State Health Services shall create a list of all
17 residential care facilities in an early voting clerk's
18 jurisdiction. The secretary of state shall provide the list to the
19 early voting clerk.

20 (e) The early voting clerk shall maintain a public list of
21 all residential care facilities in the clerk's jurisdiction at
22 which voting is conducted under this chapter. The list must be
23 available on the Internet website of the authority conducting the
24 election or posted at the location where public notices are posted
25 in the county courthouse or the authority's public building, as
26 applicable, and for each facility state:

27 (1) the name of the facility;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

4 Sec. 107.011. ASSISTING VOTER; NOTICE. (a) On written
5 request to the early voting clerk by a relative of a registered
6 voter in a residential care facility, the clerk may notify the
7 relative of the time or times at which election judges will conduct
8 voting at the facility. The relative may be present at the facility
9 while voting is conducted.

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

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

14 Sec. 107.012. SECURITY OF BALLOTS AND MATERIALS. (a) On
15 completion of the voting each day on which voting is conducted at a
16 residential care facility under this chapter, the election judges
17 for the facility shall seal the ballot envelopes and any absentee
18 ballot applications inside a secure envelope and shall seal the
19 envelope and sign the seal. The election judges shall place the
20 envelope inside a ballot bag or container.

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

25 Sec. 107.013. PROVISION OF MAIL BALLOT TO CERTAIN VOTERS.
26 If a qualified voter residing at a residential care facility and
27 seeking to vote at the facility under this chapter is not able to

1 cast a ballot during any time when voting is conducted at the
2 facility, the election judges for the facility shall inform the
3 early voting clerk. The clerk shall mail the ballot to the voter
4 not later than the fourth day before election day.

5 Sec. 107.014. WATCHERS. (a) In an election held under this
6 chapter, a watcher may observe the process of ballot distribution
7 in the common areas of a residential care facility in a manner
8 consistent with Chapter 33.

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

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

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

22 Sec. 107.015. LIMITATIONS ON APPLICABILITY OF CHAPTER. (a)
23 The early voting clerk is not required to send election judges to
24 conduct an election at a residential care facility unless there are
25 at least five registered voters who are residents of the facility.

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

27 (1) voting early by personal appearance;

1 (2) voting on election day; or

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

5 Sec. 107.016. RULES. The secretary of state may adopt rules
6 and prescribe procedures for voting at a residential care facility
7 in accordance with this chapter.

8 SECTION 14. Subchapter A, Chapter 242, Health and Safety
9 Code, is amended by adding Section 242.0181 to read as follows:

10 Sec. 242.0181. COMPLIANCE WITH CERTAIN REQUIREMENTS
11 REGARDING EARLY VOTING. An institution must comply with Chapter
12 107, Election Code.

13 SECTION 15. Subchapter A, Chapter 247, Health and Safety
14 Code, is amended by adding Section 247.008 to read as follows:

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

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

24 (b) Sections 2.101 and 31.0926, Election Code, as added by
25 this Act, and Sections 13.144, 32.034, and 52.072, Election Code,
26 as amended by this Act, apply only to an election ordered on or
27 after the effective date of this Act. An election ordered before

1 the effective date of this Act is governed by the law as it existed
2 immediately before the effective date of this Act, and that law is
3 continued in effect for that purpose.

4 (c) Sections 13.007 and 64.036, Election Code, as amended by
5 this Act, apply only to an offense committed on or after the
6 effective date of this Act. An offense committed before the
7 effective date of this Act is governed by the law in effect on the
8 date the offense was committed, and the former law is continued in
9 effect for that purpose. For purposes of this section, an offense
10 was committed before the effective date of this Act if any element
11 of the offense occurred before that date.

12 SECTION 17. This Act takes effect September 1, 2019.