

By: González of El Paso

H.B. No. 96

A BILL TO BE ENTITLED

AN ACT

1
2 relating to correcting defects in an early voting ballot voted by
3 mail.

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

5 SECTION 1. Sections 84.032(c) and (d), Election Code, are
6 amended to read as follows:

7 (c) An applicant may submit a request after the close of
8 early voting by personal appearance by appearing in person and:

9 (1) returning the ballot to be voted by mail to the
10 early voting clerk; or

11 (2) executing an affidavit that the applicant:

12 (A) has not received the ballot to be voted by
13 mail; ~~or~~

14 (B) never requested a ballot to be voted by mail;
15 or

16 (C) received a notice of defect under Section
17 87.0411(b).

18 (d) An applicant may also submit a request by appearing in
19 person and returning the ballot to be voted by mail or presenting a
20 notice received under Section 86.006(h) or 87.0411(b) to:

21 (1) the early voting clerk or deputy early voting
22 clerk at any polling place that is open for early voting by personal
23 appearance; or

24 (2) the presiding election judge on election day at

1 the applicant's precinct polling place.

2 SECTION 2. Section 87.022, Election Code, is amended to
3 read as follows:

4 Sec. 87.022. TIME OF DELIVERY: GENERAL RULE. Except as
5 provided by Section 87.0221, [~~87.0222,~~] 87.023, or 87.024, the
6 materials shall be delivered to the early voting ballot board under
7 this subchapter during the time the polls are open on election day,
8 or as soon after the polls close as practicable, at the time or
9 times specified by the presiding judge of the board.

10 SECTION 3. Section 87.0221(a), Election Code, is amended to
11 read as follows:

12 (a) In an election in which regular paper ballots are used
13 for early voting by personal appearance or by mail, the materials
14 may be delivered to the board beginning on the ninth day before the
15 last day of [~~between the end of~~] the period for early voting by
16 personal appearance. The early voting clerk shall deliver to the
17 board all early voting ballots voted by mail that have been returned
18 to the clerk by the end of the third day before the last day of the
19 period for early voting by personal appearance, and shall deliver
20 to the board all early voting ballots voted by mail received
21 thereafter at least once per day [~~and the closing of the polls on~~
22 ~~election day, or as soon after closing as practicable, at the time~~
23 ~~or times specified by the presiding judge of the board~~].

24 SECTION 4. Section 87.024(a), Election Code, is amended to
25 read as follows:

26 (a) In an election in which early voting votes by personal
27 appearance are cast on voting machines, the jacket envelopes

1 containing the early voting ballots voted by mail may be delivered
2 to the board beginning on the ninth day before the last day of
3 ~~[between the end of]~~ the period for early voting by personal
4 appearance. The early voting clerk shall deliver to the board all
5 early voting ballots voted by mail that have been returned to the
6 clerk by the end of the third day before the last day of the period
7 for early voting by personal appearance, and shall deliver to the
8 board all early voting ballots voted by mail received thereafter at
9 least once per day ~~[and the closing of the polls on election day, or~~
10 ~~as soon after closing as practicable, at a time specified by the~~
11 ~~presiding judge of the board]~~.

12 SECTION 5. Section 87.0241(a), Election Code, is amended to
13 read as follows:

14 (a) The early voting ballot board may determine whether to
15 accept early voting ballots voted by mail in accordance with
16 Section 87.041 at any time after the ballots are delivered to the
17 board except that the board shall determine by the end of the last
18 day of the period for early voting by personal appearance whether to
19 accept any early voting ballots voted by mail delivered to the board
20 by the end of the third day before the last day of the period for
21 early voting by personal appearance.

22 SECTION 6. Section 87.027(i), Election Code, is amended to
23 read as follows:

24 (i) The signature verification committee shall compare the
25 signature on each carrier envelope certificate, except those signed
26 for a voter by a witness, with the signature on the voter's ballot
27 application to determine whether the signatures are those of the

1 voter. The committee may also compare the signatures with any two or
2 more signatures of the voter made within the preceding six years and
3 on file with the county clerk or voter registrar to determine
4 whether the signatures are those of the voter. Except as provided by
5 Subsection (1), a determination under this subsection that the
6 signatures are not those of the voter must be made by a majority
7 vote of the committee's membership. The committee shall place the
8 jacket envelopes, carrier envelopes, and applications of voters
9 whose signatures are not those of the voter in separate containers
10 from those of voters whose signatures are those of the voter. As
11 soon as practicable, but in no event more than one business day
12 after the committee discovers that a voter did not sign the carrier
13 envelope certificate or determines that the signature on the
14 voter's ballot application or certificate is not that of the voter,
15 the committee chair shall deliver the jacket envelope, carrier
16 envelope, and application of the voter to the early voting ballot
17 board. The committee chair shall deliver the jacket envelopes,
18 carrier envelopes, and applications of voters whose signatures are
19 those of the voter [~~sorted materials~~] to the early voting ballot
20 board at the time specified by the board's presiding judge.

21 SECTION 7. Sections 87.041(b) and (d), Election Code, are
22 amended to read as follows:

23 (b) Except as provided by Section 87.0411(h), a [A] ballot
24 may be accepted only if:

25 (1) the carrier envelope certificate is properly
26 executed;

27 (2) neither the voter's signature on the ballot

1 application nor the signature on the carrier envelope certificate
2 is determined to have been executed by a person other than the
3 voter, unless signed by a witness;

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

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

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

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

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

20 (d) Except as provided by Section 87.0411(h), a [A] ballot
21 shall be rejected if any requirement prescribed by Subsection (b)
22 is not satisfied. In that case, the board shall indicate the
23 rejection by entering "rejected" on the carrier envelope and on the
24 corresponding jacket envelope.

25 SECTION 8. Subchapter C, Chapter 87, Election Code, is
26 amended by adding Section 87.0411 to read as follows:

27 Sec. 87.0411. OPPORTUNITY TO CORRECT DEFECT: EARLY VOTING

1 BALLOT BOARD. (a) This section applies to an early voting ballot
2 voted by mail:

3 (1) for which the voter did not sign the carrier
4 envelope certificate;

5 (2) for which it cannot immediately be determined
6 whether the signature on the carrier envelope certificate is that
7 of the voter; or

8 (3) that does not contain a statement of residence
9 form if required pursuant to Section 86.002(a).

10 (b) Before deciding whether to accept or reject a ballot
11 under Section 87.041, the early voting ballot board shall notify a
12 voter within one business day of the discovery of a defect under
13 Subsection (a) to advise the voter of the defect and provide the
14 voter an opportunity to correct the defect by providing:

15 (1) if the defect involves the voter's signature:

16 (A) the following identification:

17 (i) the identification number from an
18 unexpired driver's license, election identification certificate,
19 or personal identification card issued to the voter by the
20 Department of Public Safety;

21 (ii) the last four digits of the voter's
22 Social Security number; or

23 (iii) if the voter does not possess any
24 identification described by Subparagraph (i) or (ii), a form of
25 identification described by Section 63.0101; and

26 (B) a signed cure attestation form prescribed by
27 the secretary of state stating that the ballot at issue is that of

1 the voter; or

2 (2) if the defect involves a required statement of
3 residence form, a signed and completed statement of residence form.

4 (c) Subsection (b) does not apply if the early voting ballot
5 board determines that it would be impossible to correct the defect
6 before the ninth day after the date of the election.

7 (d) A voter may submit materials listed under Subsection (b)
8 to the early voting clerk by:

9 (1) personal delivery;

10 (2) mail;

11 (3) e-mail; or

12 (4) telephonic facsimile machine, if a machine is
13 available in the clerk's office.

14 (e) The notice under Subsection (b) must:

15 (1) inform the voter that the voter's vote will not be
16 counted unless the voter submits the materials listed under
17 Subsection (b) not later than the ninth day after the date of the
18 election;

19 (2) instruct the voter on the methods of returning the
20 materials listed under Subsection (b);

21 (3) include a copy of the cure attestation form or
22 statement of residence form prescribed by the secretary of state;
23 and

24 (4) direct the voter to the location of the cure
25 attestation form or statement of residence form on the secretary of
26 state's Internet website.

27 (f) The early voting ballot board shall provide notice to

1 the voter under Subsection (b) by mail and any other method
2 reasonably calculated to provide sufficient time for the voter to
3 submit the required materials before the deadline prescribed by
4 this section.

5 (g) The early voting ballot board is not required to provide
6 notice under Subsection (b) if the board makes a determination
7 under Section 87.027(j) that the signature on the carrier envelope
8 certificate and ballot application are those of the voter.

9 (h) If the early voting ballot board does not provide notice
10 to the voter under Subsection (b) and the ballot meets the
11 requirements of Sections 87.041(b)(1), (3), (4), (5), (6), and (7),
12 the board shall accept the ballot in the manner provided by Section
13 87.042.

14 (i) The secretary of state shall:

15 (1) prominently display and maintain on the main page
16 of the secretary's Internet website a link to blank versions of the
17 cure attestation form and the statement of residence form described
18 by Subsection (b); and

19 (2) adopt rules and prescribe forms as necessary to
20 implement this section.

21 (j) The cure attestation form and the statement of residence
22 form prescribed under this section must include clear instructions
23 for completion and notice of the penalties associated with election
24 fraud and voting more than once in an election. The cure attestation
25 form and statement of residence form may not require the voter to
26 have the form notarized or signed by a witness.

27 (k) The signature provided by the voter on a cure

1 attestation form or a statement of residence form shall be placed on
2 file with the county clerk or voter registrar to allow its use for
3 future signature comparison as provided by Section 87.027(i) and
4 Section 87.041(e).

5 SECTION 9. Section 87.0222, Election Code, as effective
6 September 1, 2021, is repealed.

7 SECTION 10. This Act takes effect on the 91st day after the
8 last day of the legislative session.